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NOTICE OF CANCELLED MEETING

**THE DECEMBER 13, 2011
REGULAR PORT COMMISSION MEETING
HAS BEEN CANCELLED**

**A SPECIAL PORT COMMISSION MEETING
IS SCHEDULED ON**

FRIDAY, DECEMBER 16, 2011

9:00 A.M. - CLOSED SESSION

10:15 A.M. - OPEN SESSION

AT THE

**BOARD OF SUPERVISORS
LEGISLATIVE CHAMBER, RM. 250
CITY HALL, 1 DR. CARLTON GOODLETT PLACE
SAN FRANCISCO, CA 94102-4689**

(Please contact the Port Commission Secretary at 274-0405 for more information)

PROPOSED AGENDA ITEMS FOR THE DECEMBER 16, 2011
SPECIAL PORT COMMISSION MEETING

- Closed session regarding: Real property negotiations with the America's Cup Event Authority, LLC relating to Seawall Lot 330, piers on the waterfront, and water areas.
- Executive Director's report to the Commission
- Approval of the San Francisco Zone Schedule for rules and regulations for Foreign Trade Zone No. 3 and approval of a subzone operating agreement with Valero Refining Company-California.
- Adoption of California Environmental Quality Act (CEQA) Findings and a Mitigation Monitoring and Reporting Program (MMRP) in connection with the authorization of construction contracts and associated approvals to implement the James R. Herman Cruise Terminal and Northeast Wharf Plaza at Pier 27, located on The Embarcadero at Lombard Street and the 34th America's Cup Project, involving use of pier and adjacent water areas of Piers 26, 28, 30-32, 9, 19, 19.5, 23, 27-29; water basins between Piers 32 and 38, Piers 14 and 22.5, Seawall Lot 330, all located along The Embarcadero waterfront; and portion of Pier 80, located along the north side of Islais Creek, east of Illinois Street.
- Approval of amendments to contracts with Kaplan McLaughlin, Diaz Architects and Pfau Long Architecture and Turner Construction Company, increasing the amount and/or scope of those contracts for engineering and construction work for the Pier 27 James R. Herman Cruise Terminal and Northeast Wharf Plaza, and approval of an amendment to the Port's Memorandum of Understanding (MOU) with the Department of Public Works to increase amount of that MOU for contract administrative services for the project.
- Approval of a Tenant Relocation Plan for the James R. Herman Cruise Terminal and Northeast Wharf Plaza at Pier 27, located on The Embarcadero at Lombard Street and the 34th America's Cup Project
- Approval of form Venue Lease and a Development Disposition Agreement to implement the 34th America's Cup Project, involving use of piers and adjacent water areas of Piers 26, 28, 30-32, 9, 19, 19.5, 23, 27-29; water basins between Piers 32 and 38, Piers 14 and 22.5, Seawall Lot 330, all located along The Embarcadero waterfront; and portion of Pier 80, located along the north side of Islais Creek, east of Illinois Street.
- Approval of other matters related to the 34th America's Cup Project and James R. Herman Cruise Terminal and Northeast Wharf Plaza at Pier 27.
- Adoption of a zero waste policy for events on the waterfront, restricting the sale, use, and distribution of certain plastic bags, plastic bottles, plastic food ware, and the release of balloons.
- Approval of a lease with Bauer Transportation for space at Pier 50, and of licenses for use of space at Pier 50 and 401 Terry Francois Blvd.

ACCESSIBLE MEETING INFORMATION POLICY

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There is accessible parking in the vicinity of City Hall at Civic Center Plaza and adjacent to Davies Hall and the War Memorial Complex. Accessible curbside parking is available on Dr. Carlton B. Goodlett Place and Grove Street.

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Sections 67.1 et seq. of the San Francisco Administrative Code) or to report a violation of the ordinance, contact Chris Rustom by mail: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854 or by email at sotf@sfgov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Rustom or by printing Sections 67.1 et seq. of the San Francisco Administrative Code on the Internet, at <http://www.sfgov.org/sunshine>.

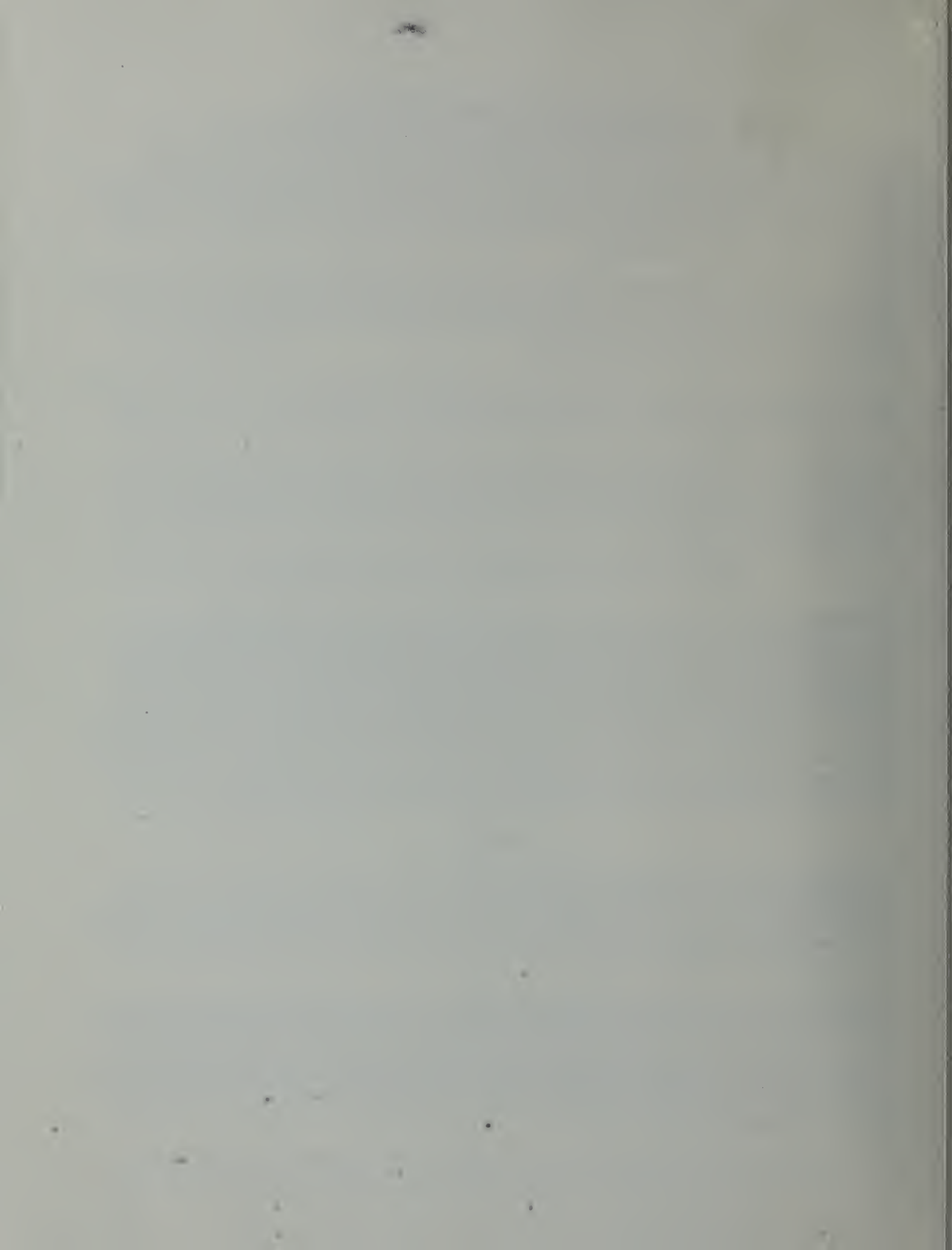
NOTICES

Prohibition of Ringing of Sound Producing Devices

The ringing of and use of cell phones, pagers, and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic device.

Lobbyist Registration and Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Conduct Code Sections §2.100 – 2.160) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 25 Van Ness, Suite 220, San Francisco, CA 94102, phone (415) 252-3100 or fax (415) 252-3112; web site: www.sfgov.org/ethics.



SAN FRANCISCO PORT COMMISSION

Kimberly Brandon, President
Ann Lazarus, Vice President
Francis X. Crowley, Commissioner
Doreen Woo Ho, Commissioner
Leslie Katz, Commissioner

Monique Moyer, Executive Director
Phone: 415-274-0400; Fax 415-274-0412

Amy Quesada, Commission Secretary
Phone: 415-274-0406; Fax 415-274-0412

AGENDA SPECIAL MEETING

FRIDAY, DECEMBER 16, 2011
9:00 A.M. CLOSED SESSION
10:15 A.M. OPEN SESSION

LEGISLATIVE CHAMBER, ROOM 250
CITY HALL, 1 DR. CARLTON GOODLETT PLACE
SAN FRANCISCO CA 94102-4689

The Port Commission Agenda as well as Staff Reports/Explanatory Documents available to the public and provided to the Port Commission are posted on the Port's Website at www.sfport.com. The agenda packet is also available at the Pier 1 Reception Desk. If any materials related to an item on this agenda have been distributed to the Port Commission after distribution of the agenda packet, those materials are available for public inspection at the Port Commission Secretary's Office located at Pier 1 during normal office hours.

12-13-11P03:09 RCVD

1. CALL TO ORDER / ROLL CALL
2. APPROVAL OF MINUTES – November 15, 2011
3. PUBLIC COMMENT ON EXECUTIVE SESSION
4. EXECUTIVE SESSION
 - A. Vote on whether to hold closed session.

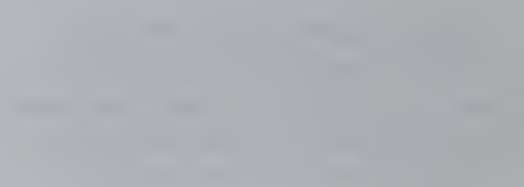
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An Executive Session has been calendared to discuss the following matters:

- (1) CONFERENCE WITH LEGAL COUNSEL AND REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8. ***This session is closed to any non-City/Port representative:**



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Editorial	1
Book Reviews	1
Correspondence	1
Obituary	1
Announcements	1
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Original Articles

1. The Effect of the War on the Medical Profession
2. The Medical Profession and the War
3. The Medical Profession and the War
4. The Medical Profession and the War
5. The Medical Profession and the War
6. The Medical Profession and the War
7. The Medical Profession and the War
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10. The Medical Profession and the War

Editorial

1. The Medical Profession and the War
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9. The Medical Profession and the War
10. The Medical Profession and the War

- a. Property: Piers 19, 23, 26, 27, 28, 29, 29½, 30-32, 80, Piers 14-22½, 32-36 and 54 water areas and Seawall Lot 330
Person Negotiating: Port: Jonathan Stern, Assistant Deputy Director, Planning & Development and Brad Benson, Special Projects Manager
*Negotiating Parties: America's Cup Event Authority, LLC: Stephen Barclay, Craig Thompson and Patrick Jost

Under Negotiations: ____ Price ____ Terms of Payment XX Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Piers 19, 23, 26, 27, 28, 29, 29½, 30-32, 80, Piers 14-22½, 32-36 and 54 water areas and Seawall Lot 330.

5. RECONVENE IN OPEN SESSION

- A. Possible report on actions taken in closed session pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67-12.
- B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

6. ANNOUNCEMENTS

- A. Announcement of Prohibition of Sound Producing Electronic Devices during the Meeting

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- B. Announcement of Time Allotment for Public Comments

Please be advised a member of the public has up to three minutes to make pertinent public comments on each agenda item unless the Port Commission adopts a shorter period on any item.

7. EXECUTIVE

- A. Executive Director's Report
- Schedule of Port Commission Meetings for 2012
 - Cancellation of Regular Port Commission - January 10, 2012
 - Special Port Commission Meeting - January 20, 2012



8. CONSENT

- A. Request approval for Port of San Francisco Zone Schedule No. 1 containing Rules, Regulations, Rates and Charges for Foreign Trade Zone #3 and submission of the Amended Zone Schedule to the Foreign Trade Zone Board for review. (Resolution No. 11-73)
- B. Request approval of the Agreement by and between the City and County of San Francisco by and through its San Francisco Port Commission and Valero Refining Company-California granting Valero Refining exclusive authority to operate its site in Benicia as a Foreign Trade Zone #3 subzone for a term of 5 years, with 3 mutual options to extend for 5 years each. (Resolution No. 11-74)

9. PLANNING & DEVELOPMENT

- A. Request adoption of California Environmental Quality Act (CEQA) Findings and a Mitigation Monitoring and Reporting Program (MMRP) in connection with the authorization of construction contracts and associated approvals to implement the Pier 27 James R. Herman Cruise Terminal and Northeast Wharf Plaza (Project), located on The Embarcadero at Lombard Street. (Resolution No. 11-75)

Request approval of a Third Amended Memorandum of Understanding (MOU) with the San Francisco Department of Public Works (DPW) to increase the MOU funding from the existing amount not-to-exceed \$3,883,664 to a total amount not-to-exceed \$7,778,267, which amounts to an increase of \$3,894,603, for Phase 1 Project construction administration services and other services, and to extend the term from March 30, 2012 to April 1, 2013. (Resolution No. 11-76)

Request approval to amend the Architectural and Engineering contract with the joint venture of Kaplan, McLaughlin, Diaz Architects and Pfau Long Architecture to include services for Phase 1 construction administration, increase the amount of the contract from \$8,110,903 to an amount not-to-exceed \$8,888,292, which consists of an increase of \$777,389, and authorize a contingency funds of \$285,000 (approximately 3.2%) for unforeseen design and related services and to extend the term from March 30, 2012 to April 1, 2013. (Resolution No. 11-77)

Request approval to amend the Construction Manager/General Contractor contract with Turner Construction Company to increase the contract amount from \$9,989,251 to an amount not-to-exceed \$41,480,748, which consists of an increase of \$31,491,497, and to staff to increase the contract amount by \$3,927,676 (approximately 9.5%) through contract modification or change order, if needed for unanticipated contingencies to fund the Phase 1 Project construction trade subcontractor packages, including shed demolition and the design-build shoreside power relocation. (Resolution No. 11-78)

- B. Request adoption of California Environmental Quality Act (CEQA) Findings and a Mitigation Monitoring and Reporting Program (MMRP) in connection with approval of form Venue Leases and Development and Disposition Agreement for the 34th America's Cup project (the "Project"), involving use of Piers 26, 28, 30-32, 9, 19, 19½, 23, 27-29, and 29½ and adjacent water areas; water basins between Piers 32 and 38 and Piers 14 and 22½, all located along The Embarcadero waterfront; Seawall Lot 330; and a portion of Pier 80, located along the north side of Islais Creek, east of Illinois Street (each, a "Venue"). (Resolution 11-79)

Request approval of Development and Disposition Agreement, form of Venue Lease, and related actions to implement the 34th America's Cup Project, involving use of Piers 26, 28, 30-32, 9, 19, 19½, 23, 27-29, and 29½ and adjacent water areas; water basins between Piers 32 and 38 and Piers 14 and 22½, all located along The Embarcadero waterfront; Seawall Lot 330; and a portion of Pier 80, located along the north side of Islais Creek, east of Illinois Street. (Resolution 11-80)

- C. Informational Update on the Establishment of a Port Infrastructure Financing District.

10. REAL ESTATE

- A. Request approval of the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Tenant Relocation Plan San Francisco, California. (Resolution Nos. 11-81 and 11-82)
- B. Informational presentation of proposed Policy for Zero Waste Events and Activities, restricting the sale, use, and distribution of certain plastic bags, plastic bottles, plastic food ware, and the release of balloons.
- C. Request approval of Lease No. L-15004 with Bauer's Intelligent Transportation Inc., subject to approval by the Board of Supervisors, for a ten year lease of office, shed and yard space at Pier 50, Sheds A and C (Resolution No. 11-83); Approval of License No. L-15074 with Bauer's Intelligent Transportation Inc. for interim use of office space at 401 Terry Francois Boulevard with a one-year term and an initial six- month free rent period (Resolution No. 11-84); and Approval of License No. L-15075 with Bauer's Intelligent Transportation for interim use of shed and yard space and access to office space at Pier 50 Shed A & C, with no rent. (Resolution No. 11-85)

11. NEW BUSINESS

12. PUBLIC COMMENT

Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. A member of the public has up to three minutes to make pertinent public comments before action is taken on any agenda item and during the new business/public comment period. It is strongly recommended that public comments be submitted in writing so they can be distributed to the Commissioners for their review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

13. ADJOURNMENT

Date		Description		Amount	
1890	Jan 1	Balance		100.00	
	Feb 1	Interest		5.00	
	Mar 1	Interest		5.00	
	Apr 1	Interest		5.00	
	May 1	Interest		5.00	
	Jun 1	Interest		5.00	
	Jul 1	Interest		5.00	
	Aug 1	Interest		5.00	
	Sep 1	Interest		5.00	
	Oct 1	Interest		5.00	
	Nov 1	Interest		5.00	
	Dec 1	Interest		5.00	
1891	Jan 1	Balance		100.00	
	Feb 1	Interest		5.00	
	Mar 1	Interest		5.00	
	Apr 1	Interest		5.00	
	May 1	Interest		5.00	
	Jun 1	Interest		5.00	
	Jul 1	Interest		5.00	
	Aug 1	Interest		5.00	
	Sep 1	Interest		5.00	
	Oct 1	Interest		5.00	
	Nov 1	Interest		5.00	
	Dec 1	Interest		5.00	

Total 100.00

FORWARD CALENDAR (Targeted Commission Meeting, Subject to Change)

- Election of Port Commission Officers (January 20, 2012)
- Informational update on alternatives to bring Pier 38 into code compliance (January 20, 2012)
- Request authorization to award four (4) contracts for As-Needed Real Estate Economics and Related Services (January 20, 2012)
- Request authorization to award Construction Contract No. 2754, Pier 50 Substructure Repair (January 20, 2012)
- Request authorization to award Construction Contract No. 2726, Brannan Street Wharf Project (January 20, 2012)
- Request authorization to execute an amendment to the professional services agreement with Winzler & Kelly/Structus JV for the Brannan Street Wharf Project to authorize additional scope and fee for design and engineering support during bidding and construction (January 20, 2012)
- Request authorization to award Construction Contract No. 2723, Pier 70 Building 113 Stabilization (January 20, 2012)
- Request authorization to advertise for competitive bids for the Pier 33 Bulkhead Building Improvements, Contract No. 2743 (January 20, 2012)
- Request authorization to award Construction Contract No. 2755, Port Security Fences, Phase 3 Project (January 20, 2012)
- Request authorization to accept and expend \$1,121,795 in 2009 Infrastructure Protection Program Port Security Grant Program funds from the Department of Homeland Security for security improvements at the Port of San Francisco (January 20, 2012)
- Request approval of Port projects to be funded in the third sale of the 2008 Clean and Safe Neighborhood Parks General Obligation Bond (January 20, 2012)
- Request approval of proposed Policy for Zero Waste Events and Activities restricting the sale, use, and distribution of certain plastic bags, plastic bottles, plastic food ware and the release of balloons (January 20, 2012)
- Informational presentation on the findings and recommendations of the Feasibility Study and Remedial Action Plan to address contaminated soil at Pier 70 (February 14, 2012)
- Informational presentation on the Port's Biennial Operating Budget for Fiscal Years 2012-13 and 2013-14 (February 14, 2012)
- Informational presentation on the Port's Proposed Biennial Capital Budget Funding for Fiscal Years 2012-13 and 2013-14 (February 14, 2012)
- Request approval of the Port's Biennial Operating Budget for Fiscal Years 2012-13 and 2013-14 (February 28, 2012)
- Request approval of the Port's Proposed Biennial Capital Budget Funding for Fiscal Years 2012-13 and 2013-14 (February 28, 2012)
- Request authorization to award Construction Contract No. 2743, Pier 33 Bulkhead Building Improvements (March 13, 2012)
- Informational presentation on SWL 337 Associates, LLC's submittal of the Revised Proposal for the development of SWL 337 and Pier 48 pursuant to the Exclusive Negotiation Agreement and consistent with the Request for Proposals and the Financial and Negotiating Principles previously identified (March 27, 2012)

Subscription price, Five Dollars Per Annum in Advance. Single Copies, Fifteen Cents. Entered as Second-Class Matter, October 3, 1917. Postpaid. Accepted for mailing at special rate of postage provided for in Act of October 3, 1917. Authorized by Act of October 3, 1917. Paid for postage by addressee.

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- Informational Presentation on San Francisco Municipal Transportation Authority and Port Mission Bay on Street Parking Strategy and proposed amendments to Port Harbor Traffic Code for Terry Francois Boulevard and the following streets east of Illinois Street: Mission Rock Street, Mission Bay Boulevard North, Mission Bay Boulevard South, South Street, 16th Street, Illinois Street, 20th Street, 23rd Street, 24th Street, 25th Street, Cesar Chavez; and Michigan Street between Marin and Cesar Chavez Streets (Date to be determined)
- Informational presentation on the status of yellow tagged Port facilities (Date to be determined)
- Request approval of Lease No. L-14957 with Paul's Stores, Inc. DBA Cost/Less Inventory Services, a California Corporation for a term of twenty-four months for premises located at Pier 70, Building 2, and containing approximately 69,358 square feet (Date to be determined)
- Request approval to enter into an agreement with the Bay Area Air Quality Management District to lease locations to operate bike share stations as part of the Bay Area Regional Bike Share Pilot Program (Date to be determined)
- Request approval of renewal of lease with Aadvark Storage Unlimited, Inc., dba American Storage Unlimited, Inc. for a term of five years with one five-year option for a 6.29 acre parcel on a portion of Seawall Lot 344, subject to Board of Supervisors' approval (Date to be determined)
- Request approval to enter into an Exclusive Right to Negotiate Agreement (ENA) with Kinder Morgan Operating LP, owned by Kinder Morgan Energy Partners LP, to negotiate terms for entering into a lease of Port property to design, finance, build and operate a bulk cargo marine terminal at Pier 96 (Date to be determined)

COMMUNICATIONS TO THE PORT COMMISSION
FROM NOVEMBER 10 TO DECEMBER 14, 2011

- From Leah Shahum, San Francisco Bicycle Coalition, handouts on Bike Safety and Cycling in the City
- From Zane O. Gresham, Morrison & Foerster, regarding comments on Supervisor Chiu's proposed amendments to the Planning Code, Case No. 2011.0532T (Board File No. 11-0548)
- From Peter Cohen, Council of Community Housing Organizations, regarding Northeast Legislation (Planning Code)
- From Rick Laubscher, regarding 8 Washington Street Project

JANUARY/FEBRUARY 2012
CALENDAR OF UPCOMING PORT MEETINGS – OPEN TO THE PUBLIC

DATE	TIME	GROUP	LOCATION
January 10 Cancelled	2:00 p.m. Closed Session	Port Commission	Port Commission Hearing Room @ the Ferry Bldg.
	3:15 p.m. Open Session	Port Commission	Port Commission Hearing Room @ the Ferry Bldg.
January 20 Special Mtg.	Time to be determined	Port Commission	Port Commission Hearing Room @ the Ferry Bldg.
February 14	2:00 p.m. Closed Session	Port Commission	Port Commission Hearing Room @ the Ferry Bldg.
	3:15 p.m. Open Session	Port Commission	Port Commission Hearing Room @ the Ferry Bldg.
February 28	2:00 p.m. Closed Session	Port Commission	Port Commission Hearing Room @ the Ferry Bldg.
	3:15 p.m. Open Session	Port Commission	Port Commission Hearing Room @ the Ferry Bldg.

NOTES:

The San Francisco Port Commission meets regularly on the second and fourth Tuesday of the month at 3:15 p.m., unless otherwise noticed. The Commission Agenda and staff reports are posted on the Port's Website @ www.sfport.com. The Port Commission meetings can be viewed online at http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=92. The Port Commission meetings are also broadcasted on the 2nd & 4th Thursday of the month at 9 p.m. on Comcast Cable Channel 26 or Astound Cable Channel 78 (formerly RCN Cable). Contact Amy Quesada at 274-0406 or amy.quesada@sfport.com

The Fisherman's Wharf Waterfront Advisory Group (FWWAG) meets regularly on a bi-monthly basis, on the third Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Rip Malloy @ 274-0267 or rip.malloy@sfport.com

Starting January 21, 2010, the Maritime Commerce Advisory Committee (MCAC) will meet every other month, on the third Thursday of the month, from 11:30 a.m. to 1:00 p.m. @ Pier 1. Contact Jim Maloney @ 274-0519 or jim.maloney@sfport.com

The Mission Bay Citizens Advisory Committee meets on the 2nd Thursday of the month at 5:00 p.m. at 1700 Owens Street, 2nd Floor. Parking validation is available. Contact Catherine Reilly, San Francisco Redevelopment Agency, at catherine.reilly@sfgov.org

The Northeast Waterfront Advisory Group (NEWAG) meets regularly on a bi-monthly basis on the first Wednesday of the month from 5:00 p.m. to 7:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Jonathan Stern @ 274-0545 or jonathan.stern@sfport.com

The Central Waterfront Advisory Group (CWAG) meets monthly on an as-needed basis, generally on the third Wednesday of the month from 5 to 7 p.m. in the Bayside Conference Room at Pier 1. Contact Mark Paez @ 705-8674 or mark.paez@sfport.com

The Rincon Point-South Beach Citizens Advisory Committee meets on a quarterly basis (the FOURTH MONDAY OF JANUARY AND THIRD MONDAYS IN APRIL, JULY, and OCTOBER), starting at 5:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Contact Catherine Reilly, Assistant Project Manager, Redevelopment Agency, @ 749-2516 or Catherine.Reilly@REDEV/SFGOV@SFGOV

The Southern Waterfront Advisory Committee (SWAC) meets every last Wednesday of the month from 6:15 to 8:15 p.m. Location to be determined. Contact David Beaupre @ 274-0539 or david.beaupre@sfport.com
The Waterfront Design Advisory Committee (WDAC) meets jointly with the Design Review Board of the Bay Conservation and Development Commission on the first Monday of the month at BCDC, 50 California Street, Rm. 2600, at 6:30 p.m. The Committee meets as needed on the fourth Monday of the month at 6:30 p.m. in the Bayside Conf. Rm. @ Pier 1. Contact Dan Hodapp @ 274-0625 or dan.hodapp@sfport.com

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The nearest accessible BART location station is Civic Center (Market/Grove/Hyde Streets). Accessible MUNI Metro lines are the F, J, K, L, M, N, T (exit at Civic Center or Van Ness Stations). MUNI bus lines also serving the area are the 5, 6, 9, 19, 21, 47, 49, 71 and 71L. For more information about MUNI accessible services, call (415) 701-4485.

There is accessible parking in the vicinity of City Hall at Civic Center Plaza and adjacent to Davies Hall and the War Memorial Complex. Accessible curbside parking is available on Dr. Carlton B. Goodlett Place and Grove Street.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Sections 67.1 et seq. of the San Francisco Administrative Code) or to report a violation of the ordinance, contact Chris Rustom by mail: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854 or by email at sotf@sfgov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Rustom or by printing Sections 67.1 et seq. of the San Francisco Administrative Code on the Internet, at <http://www.sfgov.org/sunshine>.

NOTICES

Prohibition of Ringing of Sound Producing Devices

The ringing of and use of cell phones, pagers, and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic device.

Lobbyist Registration and Reporting Requirements

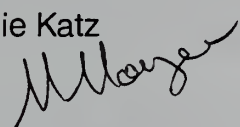
Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Conduct Code Sections §2.100 – 2.160) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 25 Van Ness, Suite 220, San Francisco, CA 94102, phone (415) 252-3100 or fax (415) 252-3112; web site: www.sfgov.org/ethics.



MEMORANDUM

December 9, 2011

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Ann Lazarus, Vice President
Hon. Francis X. Crowley
Hon. Doreen Woo Ho
Hon. Leslie Katz

FROM: Monique Moyer 
Executive Director

SUBJECT: Request approval for Port of San Francisco Zone Schedule No. 1 containing Rules, Regulations, Rates and Charges for Foreign Trade Zone #3 and submission of the amended zone schedule to the Foreign-Trade Zones Board for review

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

Background

Port staff has taken over direct operation of Foreign Trade Zone #3 ("FTZ #3") effective January 1, 2009 upon termination of the Port lease agreement with the previous FTZ #3 operator at Piers 19-23. A requirement of Foreign-Trade Zones Board regulations (15 CFR Part 400.42) is that each foreign trade zone publish a zone schedule which sets forth internal rules and regulations for the zone, and a statement of the rates and charges (fees) applicable to zone users.

The FTZ #3 Zone Schedule was completed and published shortly after the Port took over direct operation of FTZ #3. Port staff has recently reviewed the Zone Schedule and recommends Port Commission approval for certain revisions. These include increasing the Active Site Annual Fee for General Purpose Zones from \$5,000 to \$20,000; creating an Active Site Annual Fee for Subzones of \$20,000; amending the dates for annual reports to reflect changes within the Foreign-Trade Zones Board's regulations; adding Valero's Subzone 3D which was recently approved by the Foreign-Trade Zones Board; and updating various wording including the list of current Port Commissioners. A red-lined copy of the requested revisions is attached to this report. Once the revised Zone Schedule is approved by the Port Commission, it will be

THIS PRINT COVERS CALENDAR ITEM NO. 8A

forwarded to the Foreign-Trade Zones Board for review to confirm that the rates and charges are reasonable based on other like operations in the San Francisco Port of Entry area, and that there is uniform treatment under like circumstances among zone users as required under their regulations.

Discussion

The grant of authority for FTZ #3 was issued to the San Francisco Port Authority, the State of California's predecessor port agency prior to its transfer to the City and County of San Francisco, by the FTZ Board on March 10, 1948 under Board Order No. 16. As grantee of the FTZ #3, the San Francisco Port Commission ("Zone Grantee") has certain responsibilities to establish and maintain the FTZ #3 as stated in the FTZ Board regulations. FTZ Board Regulation 15 CFR Part 400.42 requires that each foreign trade zone publish a zone schedule which sets forth internal rules and regulations for the zone, and a statement of the rates and charges (fees) applicable to zone users.

The Port of San Francisco, as Zone Grantee, took over direct operation of FTZ #3 from the previous operator in January 2009 and was, therefore, required to publish and maintain an updated zone schedule. Port staff has subsequently published its own zone schedule on July 1, 2009 and completed reorganization of the foreign trade zone through our application to the Foreign-Trade Zones Board for their new Alternative Site Framework (ASF) status, which was granted in late 2010. This status allows the Port to provide FTZ #3 benefits to businesses in San Francisco and San Mateo Counties on an expedited basis and overlay the foreign trade zone designation on their physical premises.

Port staff has also created new marketing materials to enhance the visibility of FTZ #3 and promote it and the new ASF designation to Bay Area businesses. These include a new webpage on the Port's website, a PowerPoint presentation and a new marketing brochure. Port staff has been using these materials to directly promote FTZ #3 through a direct mailing to importers and through presentations to area business and economic development organizations such as the San Mateo County Economic Development Association (SAMCEDA), the Silicon Valley Economic Development Alliance (SVEDA), the San Francisco Center for Economic Development, ChinaSF, San Francisco International Airport, Port of Redwood City, the Redwood City San Mateo County Chamber of Commerce, and the Brisbane Chamber of Commerce & City Manager's office.

Proposed Zone Schedule No. 1 Changes

Port staff proposes to revise the Port of San Francisco Zone Schedule to include the Valero Refining Company-California site in Benicia as a subzone, increase the annual fee to the Port from general purpose zones from \$5,000 to \$20,000, create an annual fee to the Port from special purpose subzone operators of \$20,000, and to update other information in the schedule.

The Port's recent application to establish a special purpose subzone for Valero at their petroleum refinery in Benicia highlighted the need to revise the Zone Schedule, adopted in July 2009, especially to update the Annual Fee for general purpose zones and to create a fee for special purpose subzones. Since January 2009 the Port has been charging Chevron a separately-negotiated \$20,000 annual fee for their Richmond refinery subzone site, so the addition of this schedule item formally aligns the Valero subzone fee with Chevron's and should therefore satisfy regulatory requirements for uniform treatment. Increasing the General Purpose Zone fee level aligns it with the Subzone annual fee schedule and should therefore be deemed reasonable given the current Chevron subzone annual fee rate.

Recommendation

Port staff recommends that the Port Commission approve this resolution authorizing publication of revisions to the Port of San Francisco Zone Schedule No. 1 containing Rules, Regulations, Rates and Charges for Foreign Trade Zone #3, and submission of the amended zone schedule to the Foreign-Trade Zones Board for review.

Prepared by: Jim Maloney, Maritime Marketing Manager

For: Peter Dailey, Deputy Director, Maritime

Attachments:

- 1) Port of San Francisco Zone Schedule No. 1 containing Rules, Regulations, Rates and Charges for Foreign Trade Zone #3 (red-lined version)

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 11-73

- WHEREAS, The grant of authority for Foreign Trade Zone #3 ("FTZ #3" or the "Zone") was issued to the San Francisco Port Authority, the State of California's predecessor port agency prior to its transfer to the City and County of San Francisco, by the Foreign-Trade Zones Board ("FTZ Board") on March 10, 1948 under Board Order No. 16; and
- WHEREAS, As grantee of the FTZ #3, the San Francisco Port Commission ("Zone Grantee") has certain responsibilities to establish and maintain the FTZ #3 as stated in the FTZ Board regulations; and
- WHEREAS, FTZ Board Regulation 15 CFR Part 400.42 requires that each foreign trade zone publish a zone schedule which sets forth internal rules and regulations for the zone, and a statement of the rates and charges (fees) applicable to zone users; and
- WHEREAS, The Port of San Francisco, as Zone Grantee, took over direct operation of FTZ #3 from the previous operator in January 2009 and was, therefore, required to publish and maintain an updated zone schedule; and
- WHEREAS, The Port of San Francisco first published its zone schedule on July 1, 2009; and
- WHEREAS, Port staff proposes to revise the Port of San Francisco zone schedule to include the Valero Refining Company-California site in Benicia, California as a subzone, increase annual fee to the Port from general purpose zones from \$5,000 to \$20,000, create annual fee to the Port from special purpose subzone operators of \$20,000, and to update other information in the schedule; and
- WHEREAS, A copy of the updated schedule, effective December 16, 2011, is on file with the Secretary of the Port Commission; and
- WHEREAS, FTZ Board regulations require that the rates and charges are reasonable based on other like operations in the San Francisco Port of Entry area, and that there is uniform treatment under like circumstances among zone users as required under the regulations; and
- WHEREAS, The FTZ Board reviews zone schedules to determine whether they contain sufficient information for users concerning the operation of facilities and statements of rates and charges as provided in the federal regulations; and

WHEREAS, The recommended rates and charges of the Amended Zone Schedule fulfill these requirements for reasonable and uniform treatment; therefore, be it

RESOLVED, That the Port Commission hereby approves the recommended revisions to the Port of San Francisco Zone Schedule No. 1 containing Rules, Regulations, Rates and Charges for Foreign Trade Zone #3 as shown in the Amended Zone Schedule, and approves the submission of the amended zone schedule to the Foreign-Trade Zones Board for review.

I hereby certify the foregoing resolution was adopted by the Port Commission at its meeting of December 16, 2011.

Secretary



Zone Schedule No. 1

Containing

Rules, Regulations, Rates, and Charges

for

Foreign Trade Zone #3

As specified in Rule 2

Issued by: Peter Dailey, Deputy Director, Maritime
The San Francisco Port Commission
An Agency of the City and County of San Francisco

Issued: July 1, 2009

Effective: ~~July 9, 2009~~ December 16, 2011

PORT OF SAN FRANCISCO

Foreign Trade Zone #3

SCHEDULE No. 1
ISSUED: JULY 1, 2009

RULES AND REGULATIONS ~~ORIGINAL~~ REVISED PAGE 2
EFFECTIVE: ~~JULY 1, 2009~~ DECEMBER 16, 2011

CHECK SHEET FOR TARIFF PAGES AND SUPPLEMENTS

All of the pages contained in this tariff are listed consecutively by page number and revision number. The pages of the tariff and the supplements to the tariff, listed on this page, bear issued dates that are the same as, or prior to, the issued date of this page. A "0" in the Revision column indicates an Original Page. The "TP" in the Page column indicates the tariff Title Page. The "*" indicates ~~issued on this date~~ original issue.

EFFECTIVE SUPPLEMENTS

None currently in effect

ORIGINAL AND REVISED TARIFF PAGES

PAGE	REVISION	PAGE	REVISION	PAGE	REVISION	PAGE	REVISION
TP	0*	26	0*				
1	0*	27	0*				
2	0*	28	0*				
3	0*	29	0*				
4	0*	30	0*				
5	0*	<u>TP</u>	<u>1</u>				
6	0*	<u>1</u>	<u>1</u>				
7	0*	<u>5</u>	<u>1</u>				
8	0*	<u>7</u>	<u>1</u>				
9	0*	<u>22</u>	<u>1</u>				
10	0*	<u>23</u>	<u>1</u>				
11	0*	<u>24</u>	<u>1</u>				
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When this tariff is amended by revised pages, each revised page cancels the item or portion thereof shown on the original or revised page of the same page number. For example, "1st Revised Page 10" will have the effect of canceling Original page 10.

Reference made herein to items or pages in this tariff shall include reference to the reissue of such items or pages.

Issued by: Peter Dailey, Deputy Director, Maritime
The San Francisco Port Commission
An Agency of the City and County of San Francisco

PORT OF SAN FRANCISCO

Foreign Trade Zone #3

SCHEDULE No. 1
ISSUED: JULY 1, 2009

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Issued by: Peter Dailey, Deputy Director, Maritime
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An Agency of the City and County of San Francisco

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The San Francisco Port Commission
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ADMINISTRATION INFORMATION

This Zone Schedule has been prepared by the San Francisco Port Commission, in its capacity as the Grantee of FTZ #3. It has been prepared in accordance with 15 C.F.R. 400.42 and is on file with the Foreign-Trade Zones Board and the United States Customs Service. Any questions concerning the contents of this Zone Schedule should be addressed to:

~~Peter Dailey~~ Jim Maloney, ~~Deputy Maritime Director~~ Marketing Manager
Port of San Francisco, Pier 1
San Francisco, CA ~~95448~~ 94111
Phone: 415.274.0517 0519
Fax: 415.274.0528 Email: Jim.Maloney@sfport.com

San Francisco Port Commission

Commission Members:

~~Kimberly Brandon~~ Rodney A. Fong, President
~~Ann Lazarus~~ Stephanie Shakofsky, Vice President
~~Francis X. Crowley~~ Kimberly Brandon, Commissioner
~~Leslie Katz~~ Michael Hardeman, Commissioner
~~Doreen Woo Ho~~ Ann Lazarus, Commissioner

Executive Staff:

Monique Moyer, Executive Director
Peter Dailey, Deputy Director, Maritime
~~Tina Olson~~ Elaine Forbes, Deputy Director, Finance & Administration
Susan Reynolds, Deputy Director, Real Estate
Byron A. Rhett, Deputy Director, Planning & Development
Thomas Wm. Carter, Deputy Director, Maintenance
Robert A. Bryan, Deputy City Attorney, Port General Counsel
Sidonie Sansom, Director of Homeland Security
Renée D. Dunn, Manager, Communications
Amy Quesada, Port Commission Secretary

Note: Individual appointment dates are not the same as effective date of this page.

Issued by: Peter Dailey, Deputy Director, Maritime
The San Francisco Port Commission
An Agency of the City and County of San Francisco

PORT OF SAN FRANCISCO

Foreign Trade Zone #3

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ISSUED: JULY 1, 2009

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Rule No. 1 FOREIGN TRADE ZONES IN GENERAL

Foreign Trade Zones (FTZs) were created by the Foreign-Trade Zones Act of 1934 ("the FTZ Act") for the purpose of expediting and encouraging foreign commerce. Changes to the FTZ Act in 1950 which permitted manufacturing and exhibiting in FTZs have broadened the objectives of the program. FTZs are secured areas under U.S. Customs supervision that are considered outside the customs territory of the United States. Merchandise may be moved into an FTZ for storage, exhibition, manufacture, or other operations not otherwise prohibited by law. Customs duties on foreign merchandise are not collected until the merchandise is entered into the U.S. Customs territory.

Issued by: Peter Dailey, Deputy Director, Maritime
The San Francisco Port Commission
An Agency of the City and County of San Francisco

PORT OF SAN FRANCISCO

Foreign Trade Zone #3

SCHEDULE No. 1
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Rule No. 2 PORT OF SAN FRANCISCO FOREIGN TRADE ZONE #3

The Foreign Trade Zone #3 (FTZ #3) grant was issued to the San Francisco Port Authority, the State of California's predecessor port agency prior to its transfer to the City of San Francisco, on March 10, 1948 by the Foreign Trade Zones Board on March 10, 1948 (Board Order No. 16).

The Port of San Francisco is located on San Francisco Bay, occupying some one thousand acres on the northern and eastern shores of San Francisco, California.

The general zone operated at Pier 45 until July 13, 1977 when it relocated to Piers 19-23. The latter facility was closed on December 31, 2008.

The general zone is made up of four sites:

1. Site 1: Port of San Francisco warehouse space---192,000 square feet at Pier 19/23, 21,160 square feet at Pier 50 and 33,000 square feet at Pier 80. ~~This~~ These sites ~~is~~ are closed.
2. Site 2: San Francisco International Airport tank farms and connecting pipelines---Chevron jet tank farm: 8.5 acres, PS Trading tank farm: 1 acre, Brisbane Terminal tank farm: 26 acres, Equilon Terminal tank farm: 7 acres, and miles of connecting transmission and hydrant pipelines. This site has not been activated.
3. Site 3: Fifty-five acres at the Selby Terminal in Crockett. This site is not activated.
4. Site 4: One hundred sixty-four acres at Shore Terminals at Martinez. This site is not activated.

Foreign Trade Zone #3 has ~~three~~ four subzones.

1. Subzone 3A: Lilli Ann, established June, 27 1963, ceased operations.
2. Subzone 3B: Chevron-Exxon, established April 28, 1998, active.
3. Subzone 3C: Tesoro Refining, established December 10, 2002, not activated.
4. Subzone 3D: Valero Refining Company-California, established December 16, 2011, in process of being activated.

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The San Francisco Port Commission
An Agency of the City and County of San Francisco

PORT OF SAN FRANCISCO

Foreign Trade Zone #3

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Rule No. 3 GLOSSARY OF TERMS

1. Foreign-Trade Zones Board -- comprised of the Secretary of Commerce and the Secretary of Treasury. These officials or their designee are empowered to issue to appropriate applicants the grant of authority to establish, maintain and operate a Foreign Trade Zone project 19 U.S.C. 81a(b); 15 C.F.R. 400.2(b).
2. Foreign-Trade Zones Board staff -- Officials in the Department of Commerce, International Trade Administration responsible for overseeing the administration of Foreign Trade Zones. The Executive Secretary heads up this office 15 C.F.R. 400.2(f).
3. Port Director of Customs -- Customs official with responsibility for overseeing the activation and operations of zone projects within his customs district.
4. Grantee -- Corporation to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted." 19 U.S.C. 81a(h); 15 C.F.R. 400.2(r).
5. Operator -- Corporation, partnership, or person that operates a zone or subzone under the terms of an Agreement with the zone grantee. Where used in this part, the term "operator" also applies to a "grantee" that operates its own zone. 19 C.F.R. 146.1(15); 15 C.F.R. 400.2(s).
6. User -- A person or firm using a zone or subzone for storage, handling, or processing of merchandise. 19 C.F.R. 146.1(20); 15 C.F.R. 400.2(v).
7. FTZ Eligibility -- Issuance of a grant by the FTZ Board results in the designated area obtaining FTZ eligibility.
8. Activation -- Filing of an application with U.S. Customs by the Operator, with the Grantee's concurrence, results in the actual utilization of an FTZ eligible site as an FTZ.
9. Subzone -- a special purpose zone established as an adjunct to a zone project for a limited purpose.
10. Domestic Status Merchandise -- Merchandise produced in the United States or imported merchandise for which customs duties have already been paid.

(Rule 3 concluded on the next page)

Issued by: Peter Dailey, Deputy Director, Maritime
The San Francisco Port Commission
An Agency of the City and County of San Francisco

PORT OF SAN FRANCISCO

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(Rule 3 GLOSSARY OF TERMS continued from the previous page)

11. Privileged Foreign Status Merchandise -- Imported merchandise which has not cleared Customs and for which the User wishes said merchandise to retain its identity, from a customs classification standpoint, regardless of its condition when it ultimately enters the customs territory of the United States.
12. Non-Privileged Foreign Status Merchandise -- Imported merchandise which has not cleared Customs and for which the User does not wish said merchandise to retain its identity, from a customs classification standpoint. Therefore, if said merchandise is altered from a customs classification standpoint, it will become classifiable in its condition when it ultimately enters the customs territory of the United States.
13. Zone Restricted Merchandise -- Merchandise which can not re-enter the U.S. customs territory.
14. C.F. 214 -- Document prepared by the User, signed by the Operator and approved by U.S. Customs, which authorizes the admission of merchandise into a FTZ and designates the status of the merchandise.
15. C.F. 216 -- Document prepared by the Operator and approved by U.S. Customs, which authorizes the User to engage in certain activities within the FTZ such as manipulation, repair, destruction and manufacture.
16. C.F. 3461 -- Document prepared by the User, which must be approved by U.S. Customs and furnished to the Operator prior to the physical removal of any merchandise from the FTZ into the customs territory of the United States.
17. C.F. 7512 -- Document prepared by the User, which must be approved by U.S. Customs and furnished to the Operator prior to the physical removal of any merchandise from the FTZ for exportation of merchandise from the United States.

Issued by: Peter Dailey, Deputy Director, Maritime
The San Francisco Port Commission
An Agency of the City and County of San Francisco

PORT OF SAN FRANCISCO

Foreign Trade Zone #3

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Rule No. 4 ROLE OF THE FOREIGN-TRADE ZONES BOARD

1. Review FTZ applications, expansion applications, subzone applications, manufacturing requests and boundary modification requests and issue Board Orders.
2. All ongoing activities are subject to review 15 C.F.R.400.31(d)(1).
3. The Board may revoke a grant in whole or in part for repeated and willful violations of the Act 15 C.F.R.400.28(c).
4. A request for manufacturing/processing in an approved zone or subzone is subject to approval either through informal procedures or formal procedures 15 C.F.R. 400.28(a)(2) and 400.32(b).
5. Zone Schedules are subject to review by the Executive Secretary 15 C.F.R. 400.42(a)(2) and 400.42(b)(3).
6. Zone-restricted merchandise may be permitted to be returned into the customs territory by request to the Board 15 C.F.R. 400.44(c).
7. Retail trade requests may be processed by the Executive Secretary 15 C.F.R. 400.45.
8. Board shall publish Annual Report 15 C.F.R. 400.46(d)(2).

Rule No. 5 ROLE OF U.S. CUSTOMS

1. Port Director is local Representative of the Foreign-Trade Zones Board 19 C.F.R. 146.2; 15 C.F.R. 400.41.
2. Port Director approves activation and alteration requests 19 C.F.R. 146.6 and 146.7.
3. Customs will conduct spot checks and audits.
4. Customs provide recommendation to the Board with regard to requests to return zone restricted merchandise into the customs territory 15 C.F.R. 400.44(b)(4).
5. Port Director will determine whether an activity constitutes retail trade 15 C.F.R. 400.45.

Issued by: Peter Dailey, Deputy Director, Maritime
The San Francisco Port Commission
An Agency of the City and County of San Francisco



PORT OF SAN FRANCISCO

Foreign Trade Zone #3

SCHEDULE No. 1
ISSUED: JULY 1, 2009

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Rule No. 6 ROLE OF ZONE GRANTEE

1. File all applications with the Foreign-Trade Zones Board.
2. Assist in marketing of zone project.
3. Select Operator.
4. Insure maintenance of facilities. 19 U.S.C. 81l.
5. Insure zone is run as public utility. 19 U.S.C. 81n.
6. Concur in all activation requests filed with Customs 19 C.F.R. 146.6..
7. Insure that the Annual Report is timely filed with the FTZ Board. 19 U.S.C. 81p(b); 15 C.F.R. 400.46(d).
8. Submit the Zone Schedule to the Executive Secretary and the Port Director 15 C.F.R.400.42(b).
9. Submit requests to Customs with regard to whether an activity constitutes retail trade and can be conducted within zone 15 C.F.R. 400.45(a).

Issued by: Peter Dailey, Deputy Director, Maritime
The San Francisco Port Commission
An Agency of the City and County of San Francisco



PORT OF SAN FRANCISCO

Foreign Trade Zone #3

SCHEDULE No. 1
ISSUED: JULY 1, 2009

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Rule No. 7 ROLE OF ZONE OPERATOR

1. Supervise all admissions, transfers, removals, recordkeeping, manipulations, manufacturing, destruction, exhibition, physical and procedural security and conditions of storage in zone as required by law and regulations. 19 C.F.R. 146.4.
2. Payment of any applicable activation fee and annual fee. 19 C.F.R. 146.5.
3. Prepare written application to the Port Director for activation of zone. 19 C.F.R. 146.6.
4. Make written application to the Port Director for approval of an alteration of an activated area. 19 C.F.R. 146.7.
5. File the requisite Customs Form 301 Foreign Trade Zone Operator's Bond with the District Director. 19 C.F.R. 146.7.
6. Sign all C.F. 214s permitting merchandise to be place into the zone. 19 C.F.R. 146.9.
7. Prepare a Procedures Manual outlining the inventory control system and recordkeeping system to be followed at the zone. 19 C.F.R. 146.21.
8. Responsible for preparing a reconciliation report within 90 days after the end of the zone/subzone year. 19 C.F.R. 146.25.
9. Perform an annual internal review of the inventory control and recordkeeping system and report discrepancies to the District Director. 19 C.F.R. 146.26.
10. Maintenance of admission documentation. 19 C.F.R. 146.37.
11. Collect all in-bond documentation. 19 C.F.R. 146.40.
12. Filing of C.F. 216 for permission to manipulate, manufacture, exhibit or destroy merchandise in a zone. 19 C.F.R. 146.52.
13. Report shortages and overages to U.S. Customs. 19 C.F.R. 146.53.

Issued by: Peter Dailey, Deputy Director, Maritime
The San Francisco Port Commission
An Agency of the City and County of San Francisco

PORT OF SAN FRANCISCO

Foreign Trade Zone #3

SCHEDULE No. 1
ISSUED: JULY 1, 2009

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EFFECTIVE: ~~JULY 1, 2009~~ DECEMBER 16, 2011

Rule No. 8 ROLE OF ZONE USER

1. Payment of customs duties for merchandise entering customs territory.
2. In many instances, the zone user is responsible for maintenance of inventory control records, particularly where the zone user has physical possession of zone merchandise. 19 C.F.R. 146.4.
3. In many instances the zone user is the zone operator.

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PORT OF SAN FRANCISCO

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SCHEDULE No. 1
ISSUED: JULY 1, 2009

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EFFECTIVE: ~~JULY 1, 2009~~ DECEMBER 16, 2011

Rule No. 9 BENEFITS FROM USING THE FTZ

For businesses engaged in international trade, FTZs provide a flexible means of reducing costs, improving cash flow and obtaining other benefits. The value of FTZ use to an individual firm depends upon a combination of factors, including the tariff structure and other rules applicable to FTZs, and the commercial demands of the trade or business concerned. A number of advantageous uses of a zone are outlined below:

A. For Storage:

1. Customs duties are not payable until the merchandise is actually released from a zone and enters U.S. customs territory.
2. Excise Taxes are not payable until the merchandise is actually released from a zone and enters U.S. customs territory.
3. Re-exported merchandise is not subject to the payment of regular customs duties, countervailing and dumping duties nor excise taxes.
4. Non-conforming merchandise can be returned to the foreign supplier or destroyed under Customs' supervision without being subjected to the payment of customs duties and/or excise taxes.
5. Zone security must be in compliance with the standards set forth by the U.S.

Customs Service and theft of merchandise located within a zone is punishable as a federal offense -- thus, zone utilization generally reduces the rate of pilferage experienced by the User, as well as the insurance premiums paid by the User.

(Rule No. 9 continued on the next page)

Issued by: Peter Dailey, Deputy Director, Maritime
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PORT OF SAN FRANCISCO

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SCHEDULE No. 1
ISSUED: JULY 1, 2009

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(Rule 9 Benefits from Using the FTZ For Storage
continued from the previous page)

6. Zone Users must adopt inventory control procedures in compliance with the Customs Regulations, which enables Users to maintain tighter inventory control over merchandise located within a zone -- thus, zone utilization generally reduces the amount of merchandise which is unaccounted for and lost.
7. Zone Users can store Quota merchandise for a Quota Category that has been filled until the Quota Category reopens.
8. Foreign merchandise stored in a zone is exempt from state and local ad valorem taxation.
9. Merchandise may be remarked or relabeled in a zone to conform to U.S. Customs requirements.
10. Merchandise placed in a zone in "zone restricted" status is considered, for customs purposes, to have been exported from the United States and, if applicable, duty drawback can be claimed.

(Rule No. 9 concluded on the next page)

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SCHEDULE No. 1
ISSUED: JULY 1, 2009

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(Rule 9 Benefits from Using the FTZ continued from the previous page)

B. For Manufacturing and Processing

1. Components with a higher duty rate, utilized in the production of an article with a lower duty rate, can have their duty rate reduced to the duty rate applicable to the finished article.
2. The expense of labor, overhead and profit incurred in operations performed in a zone is not subject to customs duties.
3. Articles produced in a zone which are re-exported without having entered the customs territory of the United States are never subject to the payment of U.S. customs duties, dumping and countervailing duties nor excise taxes.
4. Any waste which results from the manufacturing performed in a zone is not subject to customs duties.
5. Any defective components which are not actually used in the manufacturing process but which are destroyed or re-exported are not subject to duty payment.
6. Articles can, in various stages of manufacture, be transferred from zone to zone.
7. Some components can possibly, through a manufacturing operation, change their character so as to escape a Quota Category.
8. The article produced in a zone is not subject to duty payment until it actually enters the U.S. customs territory.
9. Substandard foods and drugs may, in some instances, be reconditioned to meet the requirements of the Food, Drug and Cosmetics Act.

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PORT OF SAN FRANCISCO

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SCHEDULE No. 1
ISSUED: JULY 1, 2009

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Rule No. 10 INVENTORY CONTROL AND RECORDKEEPING SYSTEMS

1. The operator will maintain either a manual or automated inventory control and recordkeeping system or combination manual and automated system capable of:

(A) accounting for all merchandise, including domestic status merchandise, temporarily deposited, admitted, granted a zone status and/or status change, stored, exhibited, manipulated, manufactured, destroyed, transferred, and/or removed from the FTZ;

(B) producing accurate and timely reports and documents as required by regulations;

(C) identifying shortages and overages of merchandise in the FTZ in sufficient detail to determine the quantity, description, tariff classification, zone status, and value of the missing or excess merchandise;

(D) providing all the information necessary to make entry for merchandise being transferred to the Customs territory;

(E) providing an audit trail to Customs forms from admission through manipulation, manufacture, destruction or transfer of merchandise from the FTZ either by zone lot or Customs authorized inventory method.

2. Procedures Manual -- the operator will provide the Customs Port Director with an English language copy of its written inventory control and recordkeeping systems procedures manual and all subsequent changes thereto. The operator may authorize a zone user to maintain its individual inventory control and recordkeeping system and procedures manual; however, the operator remains responsible to Customs and liable under its bond for supervision, defects in, or failures of such a system.

(Rule No. 10 continued on the next page)

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ISSUED: JULY 1, 2009

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(Rule 10 Inventory Control and Recordkeeping Systems
continued from the previous page)

3. Admission of Merchandise -- all merchandise will be recorded in a receiving report or document using a zone lot number or unique identifier. All merchandise, except domestic status merchandise for which no permit for admission is required must be traceable to a Customs Form 214 and accompanying documentation. Quantities received will be reconciled to a receiving report or document such as an invoice with any discrepancy reported to the Port Director. The receiving report or document is required to provide sufficient information to identify the merchandise and distinguish it from other merchandise. Merchandise received will be accurately recorded in the inventory system records from the receiving report or document using the zone lot number or unique identifier for traceability.

4. Accountability for merchandise -- a zone lot number or unique identifier will be used to identify and trace merchandise. Fungible merchandise may be identified by an inventory method authorized by Customs, which must be consistently applied, such as First-In-First-Out (FIFO) and using a unique identifier. The inventory records will specify by zone lot number, or unique identifier (a) the location of merchandise; (b) zone status; (c) cost or value, except where the operator's or user's financial records maintain cost or value and the records are made available for Customs review; (d) beginning balance, cumulative receipts and removals, adjustments, and current balance on hand by date and quantity; (e) destruction of merchandise; and (f) scrap, waste, and by-products.

5. Physical inventories -- the operator is required to take at least an annual physical inventory of all merchandise in the FTZ (unless continuous cycle counts are taken as part of an ongoing inventory control program) with prior notification of the date(s) given to Customs for any supervision of the inventory deemed necessary. The operator will notify the Port Director of any discrepancies.

(Rule No. 10 concluded on the next page)

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(Rule 10 Inventory Control and Recordkeeping Systems
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6. Annual reconciliation -- the operator will prepare a reconciliation report within 90 days after the end of the zone/subzone year unless the Port Director authorizes an extension for reasonable cause. The operator will retain the annual reconciliation report for a spot check or audit by Customs. The report will contain a description of merchandise for each zone lot or unique identifier, zone status, quantity on hand at the beginning of the year, cumulative receipts and transfer (by unit), quantity on hand at the end of the year, and cumulative positive and negative adjustments (by unit) made during the year. The operator will submit to the Port Director within 10 working days after the preparation of the annual reconciliation report, a letter signed by the operator certifying that the annual reconciliation has been prepared, is available for Customs review, and is accurate. The certification letter is required to contain the name and street address of the operator, where the required records are available for Customs review; and the name, title, and telephone number of the person having custody of the records.

7. Annual system review -- the operator will perform an annual internal review of the inventory control and recordkeeping system and report to the Port Director any deficiency discovered and corrective action taken.

8. Shortages and overages -- the operator will report, in writing, to the Port

Director upon identification, as such, of any (a) theft or suspected theft of merchandise; (b) merchandise not properly admitted to the zone; or (c) shortage of one percent or more of the quantity of merchandise in a lot or covered by a unique identifier, if the missing merchandise would have been subject to duties and taxes of \$100 or more upon entry into the customs territory. The operator will record upon identification all shortages and overages, whether or not they are required to be reported to the Port Director at that time, in its inventory control and recordkeeping system. The operator will record all shortages and overages as required in the annual reconciliation report. The person with the right to make entry is required to file, within 5 days after identification of an overage, an application for admission of the merchandise to the zone on Customs Form 214 or file a Customs entry for the merchandise. If a Customs Form 214 or a Customs entry is not timely filed, and the Port Director has not granted an extension of the time provided, the merchandise will be sent to general order.

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ISSUED: JULY 1, 2009

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Rule No. 11 HANDLING AND MOVEMENT OF MERCHANDISE

1. Receipt of merchandise -- merchandise will be admitted into the zone only upon application on a uniquely and sequentially numbered Customs Form 214 ("Application for Foreign Trade Zone Admission and/or Status Designation") and the issuance of a permit by the Port Director. Exceptions to the Customs Form 214 requirement are for merchandise temporarily deposited, transmitting merchandise, or domestic merchandise admitted without permit. The operator is required to maintain a lot file containing a copy of the Customs Form 214, the examination invoices, and all other documentation necessary to account for the merchandise covered by each Customs Form 214. The lot file will be maintained in sequential order by using the unique number assigned to each Customs Form 214 as the file reference number. Where a Customs-authorized inventory method other than a lot system is in use, such as FIFO, a lot file may not be used, yet the operator will maintain a file of all Customs Form 214's in sequential order.

2. Manipulation of merchandise -- prior to any action the operator is required to file with the Port Director an application (or blanket application) on Customs

Form 216 for permission to manipulate, manufacture, exhibit, or destroy merchandise in the zone. After Customs approves the application (or blanket application), the operator will retain in his recordkeeping system the approved application. The Port Director is authorized to approve a blanket application for period of up to one year for a continuous or repetitive operation. The Port Director may disapprove or revoke approval of any application, or may require the operator to file an individual application.

(Rule No. 11 concluded on the next page)

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PORT OF SAN FRANCISCO

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ISSUED: JULY 1, 2009

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(Rule 11 Handling And Movement Of Merchandise
continued from the previous page)

3. Transfer of merchandise -- (a) to another FTZ with a different operator at the same port must be by a licensed cartman under an entry for immediate transportation on Customs Form 7512 or other appropriate form with a Customs Form 214 filed at the destination zone and (b) to another FTZ at another port must be by bonded carrier under an entry for immediate transportation on Customs Form 7512. When merchandise is transferred from one FTZ to another, the operator of the transferring zone must provide the operator of the destination zone with the documented history of the merchandise being transferred. Upon arrival of the merchandise at the destination FTZ, it is admitted under the normal zone admission procedure except that no invoice or Customs examination is required. When the historical documentation is received, the operator of the destination FTZ must associate it with the Customs Form 214 for admission of the merchandise and incorporate that information into the zone inventory control and recordkeeping system.

4. Removal of merchandise from FTZ -- except domestic status merchandise, no merchandise may be removed from the FTZ without a Customs permit on the appropriate entry form or other document as required by pertinent regulations. The Port Director may authorize transfer from the zone without physical supervision or examination by a Customs officer. Upon issuance of a permit, the Port Director will authorize delivery of the merchandise only to the operator, who then may release the merchandise to the importer or carrier. (a) Transfer to customs territory for consumption -- a Customs Form 3461 permit must be filed with and approved by Customs prior to the removal of any foreign status merchandise from the FTZ for entry into the customs territory for consumption. (b) Transfer to customs territory for exportation -- a Customs Form 7512 permit must be filed with and approved by Customs prior to the removal of any foreign status merchandise from the FTZ for entry into the customs territory for exportation. The bonded carrier will assume liability for the transportation and exportation of the merchandise.

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Foreign Trade Zone #3

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ISSUED: JULY 1, 2009

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Rule No. 12 GRANTEE FEE SCHEDULE

The following is the Grantee Fee Schedule setting forth the Grantee's charges in effect at FTZ #3.

Zone Operator-Facility-Site Applications and Activation

The following fees do not include actual preparation of the Applications, Activations, Modifications, Annual Reports or Expansion documents

A. General Purpose Zone Application

The following fees do not include actual preparation of the application.

\$10,000 General Purpose Zone Operator-Facility-Site's Application Processing Fee

The Application Processing Fee covers the Port of San Francisco "Grantee" expenses for obtaining the necessary approvals and resolutions for the General Purpose Zone Operator-Facility-Sites, submission of the Application to the Foreign-Trade Zones Board (the "Board") and any necessary support required in the General Purpose Zone Operator-Facility-Site Application process.

\$ 3,500 Activation Processing Fee

The Activation Fee covers Grantee expenses for preparation and processing of the General Purpose Zone Operations Agreement, providing the Grantee Concurrence Letter to Customs, and any necessary Grantee support required in the Customs Activation process.

\$ 205,000 Active Site Annual Fee

The General Purpose Zone Operator-Facility-Site's Annual Fee will cover Grantee expenses for oversight of the General Purpose Zone project and submission of the Annual Report to the Board. If application approval by the Board is not July 1, the Annual Fee will be pro-rated.

(Rule 12 continued on next page)

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PORT OF SAN FRANCISCO

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ISSUED: JULY 1, 2009

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General Purpose Zone Operator-Facility-Site's Application
continued from previous page)

\$ 2,500 Inactive Site Annual Fee

The General Purpose Zone Operator-Facility-Site's Annual Fee will cover Grantee expenses for oversight of the General Purpose Zone project and submission of the Annual Report to the Board. If application approval by the Board is not July 1, the Annual Fee will be pro-rated.

B. Subzone Applications and Activation

The following fees do not include actual preparation of the application.

\$10,000 Application Processing Fee - New Zone or Expansion

The Application Processing Fee covers Grantee expenses for obtaining the necessary approvals and resolutions for the Subzone, submission of the Subzone Application to the Foreign-Trade Zones Board and any necessary support required in the Application process.

\$ 3,500 Activation Processing Fee

The Activation Fee covers Grantee expenses for preparation and processing of the Operations Agreement, providing the Grantee Concurrence Letter to Customs, and any necessary Grantee support required in the Customs Activation process.

\$ 20,000 Active Site Annual Fee

The Subzone's Annual Fee will cover Grantee expenses for oversight of the Subzone project and submission of the Annual Report to the Board. If application approval by the Board is not July 1, the Annual Fee will be pro-rated.

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PORT OF SAN FRANCISCO
Foreign Trade Zone #3

SCHEDULE No. 1
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\$ 3,500 Manufacturing Authorization Request

The fee will cover the Grantee expenses for processing the Manufacturing Approval Request, submission of the Request to the Board, and base support services required in the approval process.

C. Expansions

The following fees do not include actual preparation of the application.

\$ 3,000 Expansion Application to the Board to expand the designated zone site area or the scope of operations in a Subzone.

\$ 2,000 Amendment to Expansion Application to the Board to expand the designated zone site area or the scope of operations in a Subzone Zone.

\$ 1,500 Activation Expansion Application to Customs to expand the activated area of a particular Subzone area.

\$ 1,000 Amendment to Activation Expansion Applications to Customs on activated areas within a particular Subzone.

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PORT OF SAN FRANCISCO
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D. Boundary Modifications

The following fees do not include actual preparation of the application.

\$ 2,000 Request for Boundary Modification

This fee will cover the Grantee expenses for processing the Request for Boundary Modification, submission of the Request for Boundary Modification to the Board and base support services required in the approval process.

E. Legal Expenses

Applicant, Zone Operator, Facility Site agrees to pay, or cause to be paid, all legal expenses and costs which Grantee incurs in conjunction with, or arising out of, any of the services provided in this fee schedule.

F. Miscellaneous Expenses

\$100/Hr. Special Grantee Assistance

Any additional assistance or interface required with the Board, Customs, or any other governmental agency on procedures or operations within the foreign-trade zone will be provided by the Grantee on an hourly rate basis.

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PORT OF SAN FRANCISCO

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ISSUED: JULY 1, 2009

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Rule No. 13 FTZ GRANTEE POLICIES

A. Applications

A detailed description of FTZ application requirements are outlined on the Foreign Trade Zones Board's website, <http://ia.ita.doc.gov/ftzpage/index.html>. The Port of San Francisco cannot guarantee that the FTZ Board will approve the project.

B. Removing FTZ Status

The Port of San Francisco reserves the right to remove FTZ status from approved sites under the following conditions:

1. No part of the property has been activated within 5 years of receiving FTZ Board approval.
2. There is a default in the agreement between the Zone Site Operator-Facility-Site and Grantee or between the Property Owner and Grantee.
3. Property is used for residential purposes, retail sales or any other use or development that is inappropriate for FTZ status.
4. Failure to pay charges or fees associated with FTZ status.

C. Zone Site Operator-Facility-Site Agreement

All Zone Site Operator-Facility-Sites will be required to sign a Zone Site Operator-Grantee agreement before the site can be activated with Customs. This agreement states that the Grantee does not participate in the day to day operations of the FTZ and this responsibility, therefore, is placed upon the Zone Site Operator-Facility-Site to comply with all rules and regulations.

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(Rule 13 FTZ Grantee Policies continued from previous page)

D. Landowner Agreement

Landowners will be required to sign a Land Owner/Developer/Grantee agreement before an application is submitted to the FTZ Board. This agreement outlines all responsibilities that the landowner will have to complete in order to maintain FTZ status at the property.

E. Liability

FTZ site owner and/or Zone Site Operator-Facility-Site agrees to protect, indemnify and hold harmless the ~~SC State Ports Authority~~ City and County of San Francisco, acting by and through the San Francisco Port Commission, its elected officials, employees and agents from and against any liability, obligation, damage, penalty, claim, cost, charge or expense, including attorneys' fees and costs, whether insured or not, arising out of or incident to its site.

F. Payments

All payments are due according to the terms of the billing document of the Port of San Francisco. Failure to pay any fees, charges and expenses to the Port of San Francisco shall be a basis for termination of appropriate agreement and/or removal of FTZ status.

G. Annual Reports

The FTZ Zone Site Operator-Facility-Site or owner must submit to the Port of San Francisco no later than ~~December~~ March 1st of each year an annual report for the ~~fiscal calendar~~ year ending ~~September~~ December 30th-31st containing data required by the Board and Customs. All such statements shall be signed by appropriate officials, certifying the accuracy of the reports. The FTZ Zone Site Operator-Facility-Site or owner shall prepare a narrative and submit photographs as required for the Annual Report to the Board. Land or buildings that have been leased or sold during the year must be described along with naming the new owner or lessee.

(Rule 13 continued on next page)

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PORT OF SAN FRANCISCO

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ISSUED: JULY 1, 2009

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(Rule 13 FTZ Grantee Policies continued from previous page)

H. Construction

All new construction projects will need to be mentioned in the annual report so that the FTZ Board can be informed of the updated condition and structures within FTZ sites.

I. Access

Representatives of the Port of San Francisco, FTZ Board, Customs, and other authorized U.S. government officers, shall have the right to enter the FTZ site for the authorized and lawful purpose of examining same, conferring with FTZ Zone

J. Sites

Operator-Facility-Site or owner, its agents, invitees, and employees on such premises, inspecting and checking operations, supplies, equipment and merchandise, and determining whether the business is being conducted in accordance with the procedures established for the operation and management of the FTZ site.

K. Foreign-Trade Zone Privileges

The Port of San Francisco makes no representations or warranties as to the particular privileges and benefits which may accrue to FTZ site Zone Site Operator-Facility-Site or owner from foreign-trade zone site operations as those privileges and benefits may vary as a result of changes in federal law, determinations of the Board and Customs, and operational decisions of the FTZ Zone Site Operator-Facility-Site. The Port of San Francisco shall in no way be liable for any costs or losses sustained by FTZ Zone Site Operator-Facility-Site or Landowner as a result of FTZ status.

(Rule 13 concluded on next page)

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Foreign Trade Zone #3

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(Rule 13 FTZ Grantee Policies continued from previous page)

L. Retail Trade within FTZ

No retail trade may be conducted within FTZ #3 except under permits issued by the Grantee and approved by the FTZ Board.

M. Zone-restricted Merchandise

Zone-restricted merchandise may be transferred to the customs territory only for entry for exportation or for entry for transportation and exportation, for warehousing pending exportation, for destruction (except destruction of distilled spirits, wines and fermented malt liquors), for transfer to another FTZ, or for delivery to a qualified vessel or aircraft or as ground equipment of a qualified aircraft, unless the FTZ Board has ruled that the return of the merchandise to the customs territory for domestic consumption is in the public interest.

N. Exclusion from FTZ of Goods or Processes

The FTZ Board may at any time order the exclusion from FTZ 3 any merchandise or process of treatment that in its judgment is detrimental to the public interest, health, or safety.

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ISSUED: JULY 1, 2009

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Rule No. 14 OPERATOR FEE SCHEDULE

Each operator will be responsible for preparation of its own Fee Schedule listing its charges. All Operator Fee Schedules will be provided to the Grantee and will become part of this Zone Schedule. All rates and charges for all FTZ services within FTZ #3 shall be fair and reasonable and the operators shall afford to all who may apply for the use of the FTZ and its facilities uniform treatment under like conditions. Actual schedule to be determined.

Issued by: Peter Dailey, Deputy Director, Maritime
The San Francisco Port Commission
An Agency of the City and County of San Francisco



MEMORANDUM

December 9, 2011

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Ann Lazarus, Vice President
Hon. Francis X. Crowley
Hon. Doreen Woo Ho
Hon. Leslie Katz

FROM: Monique Moyer *M Moyer*
Executive Director

SUBJECT: Request approval of the Agreement by and between the City and County of San Francisco by and through its San Francisco Port Commission and Valero Refining Company-California granting Valero Refining exclusive authority to operate its site in Benicia as a Foreign Trade Zone #3 subzone for a term of 5 years, with 3 mutual options to extend for 5 years each

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

Background

In December 2010, Port staff received Port Commission approval to apply to the Foreign-Trade Zones Board, on behalf of Valero Refining Company-California, to establish a Foreign Trade Zone (FTZ) subzone at Valero's Benicia, California petroleum refinery. Subsequent to that Port Commission approval through resolution 10-78, Port staff submitted an application on February 17, 2011 on behalf of Valero to establish this subzone. The Foreign-Trade Zones Board notified the Port on November 17, 2011 through Board Order 1797 that subzone status has been approved at the Benicia refining facilities.

Valero will operate the subzone pursuant to the proposed Operations Agreement (a copy of which is substantially in the form of the agreement on file with the Secretary of the Port Commission (the "Agreement")). The Agreement provides Valero Refining Company-California exclusive authority to operate its site in Benicia as a Foreign Trade Zone #3 subzone for a term of 5 years, with 3 mutual options to extend for 5 years each. Any operating costs or capital improvements associated with the subzone will be Valero's responsibility. No public funds will be required to fund the subzone project.

This Print Covers Calendar Item No. 8B

The Port's Foreign Trade Zone #3 Zone Schedule (tariff) provides for a \$10,000 Application Processing Fee, already received from Valero, which covers expenses for obtaining the necessary approvals and resolutions for the subzone, submission of the subzone application to the Foreign-Trade Zones Board and any necessary support required in the application process. The Zone Schedule also provides for a \$3,500 Activation Fee and \$20,000 Annual Fee, which covers Port staff administrative expenses including preparation of an Annual Report to the Foreign-Trade Zones Board summarizing FTZ #3 annual activities including subzones, required under FTZ Board regulations.

Discussion

Foreign trade zones were established by the U.S. Congress in The Foreign-Trade Zones Act of 1934 to stimulate economic development in communities by providing businesses with economic advantages to conduct international trade activities in the United States, versus foreign locations, thus increasing the availability of local jobs and exports. In 1948, the Port of San Francisco received a Foreign Trade Zone Board Grant of Authority to establish, operate and maintain a foreign trade zone (FTZ). In granting such a designation, the Act allows for the establishment of special purpose Subzones, such as oil refineries. In 1998 the Port established such a subzone for the Chevron USA Inc. refinery facility in Richmond, California. Port staff were approached by Valero last year to establish a subzone at their petroleum refinery in Benicia.

The United States remains dependent on imports of petroleum products, primarily crude oil. FTZ status at the Benicia refinery will allow Valero to improve its net margins at that refinery and put it in a better position to retain jobs and compete with imports of finished petroleum products. This status will also allow the Valero refinery to better compete with other refineries in the area, some of which are already operating as FTZ subzones, while also strengthening Valero as a whole. As the U.S. becomes more efficient in its own consumption of petroleum products and as developing countries increase their demand, U.S. refiners, including Valero, could be poised to increase exports to those countries. FTZ status will promote the likelihood of exports from the Benicia refinery.

The Foreign-Trade Zones Act provides for "...the establishment...of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the FTZ Board to grant to qualified corporations the privilege of establishing FTZ subzones in or adjacent to U.S. Customs and Border Protection (CBP) ports of entry. The FTZ Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest.

Article VII of the Transfer Agreement and Charter Section B3.581(o) authorize the Port of San Francisco "to operate foreign trade zones within the Port area or auxiliary to the Port area, or such zones or subzones as have been operated by the San Francisco Port Authority." The proposed subzone is auxiliary to the Port area because Valero imports crude oil to its refinery in Benicia on vessels that regularly anchor at San Francisco Bay anchorages, and use tug and tow and other marine services that are predominantly located at the Port of San Francisco to support these vessels. The more ships Valero

continues to bring into the Bay, the more need Valero will have for Port of San Francisco harbor services which translates to greater maritime commerce and income to the Port.

Foreign trade zone activities Valero proposes to commence at the subzone site include: deferring U.S. Customs entries of petroleum imports until finished products are ready to leave subzone, thereby deferring payment of Customs duties; processing Customs entries weekly rather than on a per-shipment basis; and eliminating payment of Customs duties on imported refinery inputs for finished products that are later re-exported such as jet fuel, petroleum coke and diesel fuel.

The FTZ Board processed the Port's application, inviting public comment, and found that the requirements of the FTZ Act and Board's regulations would be satisfied, and that the proposal would be in the public interest, and therefore granted authority for subzone status through Board Order 1797 dated November 17, 2011 (Attachment 1).

Staff deems it practicable to limit Port participation as Zone Grantee in the everyday operations of the subzone. Valero Refining Company-California is the owner of the subzone and wishes to undertake the operational management of FTZ subzone activities, on its own behalf, pursuant to the authority extended by the Zone Grantee and subject to all applicable federal, state and local regulations, statutes and ordinances. The Agreement outlines conditions for the operation of the subzone.

A formal concurrence letter (Attachment 2) will request activation with U.S. Customs.

Recommendation

Port staff recommends that the Port Commission approve this resolution authorizing execution of the Agreement by and between the Port Commission and Valero Refining Company-California granting Valero Refining exclusive authority to operate its site in Benicia as a Foreign Trade Zone #3 subzone for a term of 5 years, with 3 mutual options to extend for 5 years each (up to 2032) and outlining conditions for the operation of the subzone.

Prepared by: Jim Maloney, Maritime Marketing Manager

For: Peter Dailey, Deputy Director, Maritime

Attachments:

- 1) Foreign-Trade Zones Board Order 1797 approving subzone status at the facilities of Valero Refining Company-California in Benicia, California
- 2) Draft Letter of Concurrence from Port to U.S. Customs and Border Protection requesting subzone Activation

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 11-74

- WHEREAS, The grant of authority for Foreign Trade Zone #3 ("FTZ #3" or the "Zone") was issued to the San Francisco Port Authority, the State of California's predecessor port agency prior to its transfer to the City and County of San Francisco, by the Foreign-Trade Zones Board ("FTZ Board") on March 10, 1948 under Board Order No. 16; and
- WHEREAS, Article VII of the Transfer Agreement and Charter Section B3.581(o) authorize the Port of San Francisco "to operate foreign trade zones within the Port area or auxiliary to the Port area, or such zones or subzones as have been operated by the San Francisco Port Authority;" and
- WHEREAS, As grantee of the FTZ #3, the San Francisco Port Commission ("Zone Grantee") has certain responsibilities to establish and maintain the FTZ #3 as stated in the FTZ Board regulations; and
- WHEREAS, The Foreign-Trade Zones Act provides for "...the establishment...of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the FTZ Board to grant to qualified corporations the privilege of establishing foreign-trade zone subzones in or adjacent to U.S. Customs and Border Protection ports of entry; and
- WHEREAS, The FTZ Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest; and
- WHEREAS, Valero Refining Company-California (the "Subzone Operator") desires to make use of foreign trade zone status and wishes to activate the Benicia refinery site described in its application to the FTZ Board (a copy of which is on file with the Secretary of the Port Commission); and
- WHEREAS, The proposed subzone is auxiliary to the Port area because Valero imports crude oil to its refinery in Benicia on vessels that regularly anchor at San Francisco Bay anchorages, and use tug and tow and other marine services that are predominantly located at the Port of San Francisco to support these vessels; the more ships Valero continues to bring into the Bay, the more need Valero will have for Port of San Francisco harbor services which translates to greater maritime commerce and income to the Port; and

- WHEREAS, The Port of San Francisco has made application to the FTZ Board for authority to establish a special-purpose subzone at the oil refining facilities of Valero Refining Company-California, located in Benicia, California (FTZ Docket 12-2011, filed February 17, 2011); and
- WHEREAS, Notice inviting public comment was given in the *Federal Register* (76 FR 10329, February 24, 2011) and the application has been processed pursuant to the FTZ Act and the FTZ Board's regulations; and
- WHEREAS, The FTZ Board found that the requirements of the FTZ Act and Board's regulations would be satisfied, and that the proposal would be in the public interest, and therefore granted authority for subzone status through Board Order 1797 dated November 17, 2011; and
- WHEREAS, The Port, as Zone Grantee, deems it practicable to limit its participation in the everyday operations of the Subzone; and
- WHEREAS, Valero, as Subzone Operator, will be the owner of the Subzone and wishes to undertake the operational management of foreign trade zone subzone activities, on its own behalf, pursuant to the authority extended by the Port, as Zone Grantee, and subject to all applicable federal, state and local regulations, statutes and ordinances; and
- WHEREAS, Subzone activities that Valero proposes to commence at the subzone site include: deferring U.S. Customs entries of petroleum imports until finished products are ready to leave the subzone, thereby deferring payment of Customs duties; processing Customs entries weekly rather than on a per-shipment basis; and eliminating payment of Customs duties on imported refinery inputs for finished products that are later re-exported such as jet fuel, petroleum coke and diesel fuel; and
- WHEREAS, The Port and Valero, as Subzone Operator, have negotiated an agreement granting Subzone Operator exclusive authority to operate the Subzone for a term of five years, with 3 mutual options to extend for 5 years each, a copy of which is substantially in the form of the agreement on file with the Secretary of the Port Commission (the "Agreement"); and
- WHEREAS, Under the Agreement, Valero, as Subzone Operator, agrees to pay the Port, as Zone Grantee, a \$20,000 Annual Fee that will cover Zone Grantee expenses for oversight of the Subzone project and submission of the Annual Report summarizing FTZ #3 annual activities, including subzones, to the FTZ Board; now, therefore, be it
- RESOLVED, That the Port Commission hereby approves the Agreement by and between the Port Commission and Valero Refining Company-California granting Valero Refining exclusive authority to operate its site in Benicia California as a Foreign Trade Zone #3 subzone for a term of 5 years, with 3 mutual options to extend for 5 years to 2032; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments or other modifications to the Agreement that the Executive Director, in consultation with the City Attorney, determines is in the best interest of the Port, do not alter the payments to the Port, do not materially increase the obligations or liabilities of the Port or City or materially decrease the public benefits accruing to the Port, and are necessary and advisable to complete the transaction and effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of any such documents.

I hereby certify the foregoing resolution was adopted by the Port Commission at its meeting of December 16, 2011.

Secretary



UNITED STATES DEPARTMENT OF COMMERCE
The Foreign-Trade Zones Board
Washington, D.C. 20230

ATTACHMENT 1

November 17, 2011

Mr. Peter Dailey
Director of Maritime
Port of San Francisco
Pier 1, Embarcadero
San Francisco, California 94111

Dear Mr. Dailey:

I am pleased to enclose a certified copy of Board Order 1797 approving subzone status at the facilities of Valero Refining Company - California, located in Benicia, California (Subzone 3D), subject to the following conditions:

1. Foreign status (19 CFR §§146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.
2. Privileged foreign status (19 CFR §146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR §146.42) may be elected on refinery inputs covered under HTSUS Subheadings #2709.00.10, #2709.00.20, #2710.11.25, #2710.11.45, #2710.19.05, #2710.19.10, #2710.19.45, #2710.91.00, #2710.99.05, #2710.99.10, #2710.99.16, #2710.99.21 and #2710.99.45 which are used in the production of:
 - petrochemical feedstocks and refinery by-products (examiner's report, Appendix "C");
 - products for export;
 - and, products eligible for entry under HTSUS # 9808.00.30 and # 9808.00.40 (U.S. Government purchases).

Please accept our best wishes for the expansion of your area's foreign-trade zone program.

Sincerely,

Andrew McGilvray
Executive Secretary

Enclosure

U.S. DEPARTMENT OF COMMERCE
Foreign-Trade Zones Board
Order No. 1797

Grant of Authority for Subzone Status
Valero Refining Company - California
(Oil Refinery)
Benicia, California

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

WHEREAS, the Foreign-Trade Zones Act provides for "...the establishment... of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

WHEREAS, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

WHEREAS, the Port of San Francisco, grantee of Foreign-Trade Zone 3, has made application to the Board for authority to establish a special-purpose subzone at the oil refining facilities of Valero Refining Company - California, located in Benicia, California (FTZ Docket 12-2011, filed 2-17-2011);

WHEREAS, notice inviting public comment has been given in the *Federal Register* (76 FR 10329, 2-24-2011) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

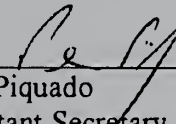
WHEREAS, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that the proposal would be in the public interest if subject to the restrictions listed below;

NOW, THEREFORE, the Board hereby grants authority for subzone status for the oil refining facilities of Valero Refining Company - California, located in Benicia, California (Subzone 3D), as


described in the application and *Federal Register* notice, subject to the FTZ Act and the Board's regulations, including Section 400.28, and further subject to the following conditions:

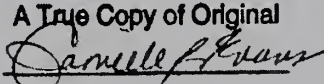
1. Foreign status (19 CFR §§146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.
2. Privileged foreign status (19 CFR §146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR §146.42) may be elected on refinery inputs covered under HTSUS Subheadings #2709.00.10, #2709.00.20, #2710.11.25, #2710.11.45, #2710.19.05, #2710.19.10, #2710.19.45, #2710.91.00, #2710.99.05, #2710.99.10, #2710.99.16, #2710.99.21 and #2710.99.45 which are used in the production of:
 - petrochemical feedstocks and refinery by-products (examiner's report, Appendix "C");
 - products for export;
 - and, products eligible for entry under HTSUS # 9808.00.30 and # 9808.00.40 (U.S. Government purchases).

Signed at Washington, DC, this 16th day of November 2011.



Paul Piquado
Assistant Secretary of Commerce
for Import Administration
Alternate Chairman
Foreign-Trade Zones Board

ATTEST: 
Andrew McGilvray
Executive Secretary

A True Copy of Original


ATTACHMENT 2



[GRANTEE CONCURRENCE LETTER REQUESTING SUBZONE ACTIVATION]

December 16, 2011

Mr. Reginald Manning
Area Port Director – Port of San Francisco
U.S. Customs and Border Protection
555 Battery Street, Room 319
San Francisco, CA 94111

Attn: Officer Starks, San Francisco-Oakland Bonded Warehouse/Cargo Security Coordinator

Dear Port Director Leonard:

The Port of San Francisco, as Grantee of Foreign Trade Zone # 3, and in conformance with Port Commission Resolution 11-__ dated December 16, 2011, is pleased to submit this letter of concurrence with a request by Valero Refining Company-California ("Valero"), to activate its foreign-trade subzone in Benicia, CA. Valero will act as operator of the subzone sites as approved under its FTZ Operator's Bond. Valero will operate its Benicia, California refinery complex in accordance with the Foreign-Trade Zones Board Order 1797 as a special-purpose Subzone. The company has executed a grantee-operator agreement with the Port of San Francisco.

By this letter, we convey our full support and concurrence for the activation of the Valero Benicia refinery FTZ and encourage you to grant approval. If you have any questions, do not hesitate to contact me at (415) 274-0519. Your prompt attention to this matter is greatly appreciated.

Sincerely,

Jim Maloney
Maritime Marketing Manager

Cc: Kirstin Silberschlag, Valero Energy Corporation
Michael Leightman, Ernst & Young



MEMORANDUM

December 9, 2011

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Ann Lazarus, Vice President
Hon. Francis X. Crowley
Hon. Doreen Woo Ho
Hon. Leslie Katz

FROM: Monique Moyer 
Executive Director

SUBJECT: (1) Request adoption of California Environmental Quality Act (CEQA) Findings and a Mitigation Monitoring and Reporting Program (MMRP) in connection with the authorization of construction contracts and associated approvals to implement the Pier 27 James R. Herman Cruise Terminal and Northeast Wharf Plaza (Project), located on The Embarcadero at Lombard Street (Resolution No. 11-75)

(2) Request approval of a Third Amended Memorandum of Understanding (MOU) with the San Francisco Department of Public Works (DPW) to increase the MOU funding from the existing amount not-to-exceed \$3,883,664 to a total amount not-to-exceed \$7,778,267, which amounts to an increase of \$3,894,603, for Phase 1 Project construction administration services and other services, and to extend the term from March 30, 2012 to April 1, 2013 (Resolution No. 11-76)

(3) Request approval to amend the Architectural and Engineering contract with the joint venture of Kaplan, McLaughlin, Diaz Architects and Pfau Long Architecture to include services for Phase 1 construction administration, increase the amount of the contract from \$8,110,903 to an amount not-to-exceed \$8,888,292, which amounts of an increase of \$777,389, and authorize a contingency funds of \$285,000 (approximately 3.2%) for unforeseen design and related services and to extend the term from March 30, 2012 to April 1, 2013 (Resolution No. 11-77)

THIS PRINT COVERS CALENDAR ITEM NO. 9A

(4) Request approval to amend the Construction Manager/General Contractor contract with Turner Construction Company to increase the contract amount from \$9,989,251 to an amount not-to-exceed \$41,480,748, which consists of an increase of \$31,491,497, and to increase the contract amount by \$3,927,676 (approximately 9.5%) through contract modification or change order, if needed for unanticipated contingencies to fund the Phase 1 Project construction trade subcontractor packages, including shed demolition and the design-build shoreside power relocation. (Resolution No. 11-78)

DIRECTOR'S RECOMMENDATION: Approve Attached Resolutions

SUMMARY

On December 1, 2011, the San Francisco Planning Department completed a Final Environmental Impact Report ("EIR") for the 34th America's Cup event and the Pier 27 James R. Herman International Cruise Terminal and Northeast Wharf Plaza, prepared pursuant to the California Environmental Quality Act ("CEQA"). Certification of the EIR will be considered by the San Francisco Planning Commission on December 15, 2011. If the EIR is certified, Port staff seeks Port Commission action to approve the following items:

- 1) Adopt CEQA Findings and a Mitigation Monitoring and Reporting Program (MMRP) in connection with the authorization of construction contracts and associated approvals to implement the Pier 27 James R. Herman International Cruise Terminal and Northeast Wharf Plaza Project ("Project");
- 2) Approve the Third Amended MOU with DPW for Phase 1 Project construction administration services increasing the MOU amount to \$7,778,267;
- 3) Approve a contract amendment with the Design Team for Phase 1 Project construction administration services in the amount of \$8,888,292 and a contingency of \$285,000 totaling \$9,173,292 for unforeseen design and related services; and
- 4) Approve an amendment to the CM/CG contract with Turner Construction Company to provide funding of \$41,480,748 and a contingency of \$3,927,676 totaling \$45,408,424 for Phase 1 Project construction trade subcontractor bid packages, including shed demolition and design-build shoreside power relocation.

BACKGROUND

For over twenty years, the Port has actively pursued development of a new cruise terminal. The October 12, 1998 staff report to the Port Commission stated that "a new cruise terminal is required in San Francisco to efficiently meet the current needs of cruise lines and passengers, as well as the expected increase in future cruise business." In 1998 when this staff report was written, 27 cruise ships called at the Port. Since that time, the number and size of cruise ships have more than doubled. The Port has twice attempted to construct a new cruise terminal at Piers 30-32 through public-private partnerships. Both attempts failed. In September 2006, the Port Executive

Director appointed a Mayor's blue ribbon Cruise Terminal Advisory Panel to evaluate locations and propose an implementation strategy for a new cruise terminal project.

In September 2007, the Port Commission accepted the Cruise Terminal Advisory Panel's recommendations which included the creation of a publicly-financed, year-round cruise terminal at Pier 27. The Cruise Terminal Advisory Panel also re-affirmed the development of a Northeast Wharf Plaza at Pier 27 that would attract City residents and visitors to enjoy San Francisco Bay. Pursuant to the Port's Waterfront Land Use Plan and the San Francisco Bay Conservation and Development Commission's Special Area Plan, the Northeast Wharf Plaza will be an open space that will serve as a major waterfront public resource with a design complementing the new cruise terminal. The Northeast Wharf Plaza would support passive recreational enjoyment and expansive public views of San Francisco Bay.

Specific Project details include:

- Conversion of Pier 27 into a year-round cruise terminal and community asset;
- The cruise terminal will meet evolved security and passenger handling demands of the cruise industry while also being reconfigured to allow for use when it is not occupied for cruise purposes;
- Provide user-friendly facilities and services to all potential users, including cruise passengers, waterfront tourists and the general public;
- After removing Pier 27 shed, construction of a major 2.5 acre open space, known as the Northeast Wharf Plaza, so that City residents and visitors will be able to enjoy the presence of cruise ships, maritime activity and views of the Bay and Treasure Island;
- In addition to the Northeast Wharf Plaza, creation of a public access program for the Pier 27-29 site that provides regional public benefit, while respecting cruise operations and security requirements;
- A built-in flexibility in the cruise terminal to allow berthing of different types and sizes of cruise ships and meet the needs of different operational modes;
- Offer cruise passengers a positive experience (i.e., making passengers feel welcome through efficient baggage handling, security screening, check-in embarkation and disembarkation procedures);
- Allow for varied multi-purpose use of the cruise terminal during non-cruise days for public and/or private programming;
- Develop uses that activate the Northeast Wharf Plaza so that it can be used year-round;
- Develop flexibility into the design to meet future needs of the Project;
- Build and manage the cruise terminal to the highest feasible environmental design standards; and
- Create a cruise terminal which will provide an on-going stimulus to the San Francisco economy by attracting visitors and contributing tax revenues to the City's General Fund.

PROJECT PLANNING

The planning work to formulate the Project required the Port to hire services to develop a design for both the cruise terminal and the Northeast Wharf Plaza.

In June 2009, the Port Commission, through a Memorandum of Understanding ("MOU"), retained the City's Department of Public Works ("DPW") to assist in the design and the construction management of the Project. Through the MOU, DPW was enlisted to advertise a contract for a Construction Manager / General Contractor ("CM/CG") that would offer a constructability review and cost estimating services as well as to plan and organize the sequence of construction activities. In addition, DPW was tasked with providing a competitive hiring process to secure an environmental consultant to comply with CEQA requirements. In August 2010, the Port Commission approved the contract award to Environmental Sciences Associates to prepare an environmental impact report.

In November 2009, the Port Commission authorized Port staff to execute an architectural and engineering contract with a design team lead by Kaplan, McLaughlin & Diaz and Pfau Long Architects in association with cruise terminal design consultant, Bermello Ajamil & Partners ("Design Team"). The Design Team and DPW have since developed final design plans for the cruise terminal building as well as prepared design plans for the Northeast Wharf Plaza.

In concert with these efforts, Port staff has conducted a public process to solicit input from waterfront and maritime stakeholders as well as the Port Commission. Port staff has held several public workshops and meetings to present and solicit response on the design and program for both the cruise terminal and the plaza. As part of that effort, the Port's Executive Director appointed a Pier 27 Design Steering Committee to provide ideas and raise issues throughout the development process. Port staff has regularly updated the Port's Maritime and Commerce Advisory Committee ("MCAC"). The MCAC created a subgroup to provide additional input into the design and operation of the Project.

In 2010, the Port, DPW and the Design Team contemplated two options for providing a new cruise terminal: 1) renovation of the existing Pier 27 shed and 2) construction of a new building. By Fall 2010, the City was engaged in discussions with Oracle Racing and the Golden Gate Yacht Club regarding a possible bid to host the 34th America's Cup ("AC34") in San Francisco. The negotiations that ensued, which included the Port, ultimately led to the City's host city proposal which incorporated use of several northern waterfront piers, including Pier 27 as the America's Cup Village, the major entertainment, hospitality and spectator viewing center for the racing event.

On December 14, 2010, the Board of Supervisors endorsed a Host and Venue Agreement ("HVA") with the America's Cup Event Authority LLC ("Event Authority"). On December 31, 2010, the Golden Gate Yacht Club selected San Francisco as the host city.

In light of these developments, the Port Commission on December 14, 2010 authorized Port staff and its Design Team to initiate schematic design on Scheme B2, a design option that would construct a new cruise terminal building.

Under the HVA, the spectator viewing and program requirements of the America's Cup Village provides for the demolition of the Pier 27 shed and a connecting portion of the Pier 29 shed, and a two-phase construction of the Pier 27 cruise terminal, as noted below:

Phase 1

Phase 1 would consist of hazardous material abatement and demolition of the Pier 27 shed, partial demolition of the Pier 29 shed and the Pier 27 Annex office building, relocation of the shoreside power equipment, and preparation of the Pier 27 site to allow the Event Authority under the HVA for the 34th America's Cup ("Event") to install temporary improvements for the duration of the racing events (see Attachment 1). Starting in early 2012, the Port would construct the "core and shell" of the cruise terminal building over approximately a one year period for temporary use by the Event Authority in 2013.

The building would include bathrooms, elevators, partial finishes, lighting, and all systems and features necessary for a Temporary Certificate of Occupancy.

Interior space designated for the U.S. Department of Homeland Security, Customs and Border Protection would be left unfinished.

The exterior landscape and transit areas would be limited to providing safe access in and out of the building.

Phase 2

After the Event and Piers 27 and 29 are returned to the Port, the Port would build-out the remaining portions of the cruise terminal building (e.g., the U.S. Customs and Border Protection offices and security rooms), install maritime equipment such as the mobile gangway system, fenders and bollards, complete the battery charging station and operations area within Pier 29, and complete improvements to the Northeast Wharf Plaza and the ground transportation area. These improvements are hoped to be completed in 2014.

The City's commitment to meet the demolition and construction schedule under the HVA required the Port to accelerate design and construction planning and the regulatory approval process, including modification of the contract with Environmental Science Associates to expand the scope to include AC34 in the preparation of an Environmental Impact Report to meet CEQA requirements

In June 2011, the Port Commission authorized the award of the CM/GC contract to Turner Construction Company. The CM/GC scope of work was outlined in the June 9, 2011 staff report. Under this contract, Turner Construction Company would provide pre-

construction services that consisted of determining the constructability of the design, developing cost estimates, and developing trade subcontractor bid packages. As part of this contract scope of work, Turner Construction Company is bidding and will award a trade subcontractor package for structural steel for the core and shell terminal building.

REQUESTED ACTIONS OF THE PORT COMMISSION

1) CM/CG Services and Trade Subcontractor Bid Packages

During the Phase 1 construction period, the CM/GC would award all the subcontractor trade packages and manage all the on-site work. The CM/CG would coordinate with the America's Cup contractors, as necessary, respond to conditions in the field, work order changes, and in general perform all the CM/GC services as stipulated in its contract.

In order to meet the Phase 1 construction completion in March 2013, the Port must direct Turner Construction Company as the CM/GC to begin to implement the trade subcontractor bid packages associated with Phase 1 Project construction. If the Port Commission approves staff's current request, the CM/GC would award subcontractor bid packages for Phase 1 Project construction.

The Project schedule assumes construction commencement targeted for approximately March 1, 2012, subject to regulatory approvals. The Substantial Completion date for the Phase 1 core and shell of the Cruise Terminal building is scheduled for March 1, 2013. Punch list items would be completed by the end of March 2013 and the structure would be available for Event Authority use in April 2013.

In order for the CM/GC to perform its tasks associated with Phase 1 construction, Port staff requests authorization to amend the CM/CG contract with Turner Construction Company to increase the contract amount from \$9,989,251 to an amount not to exceed \$41,480,748, which consists of an increase of \$31,491,497 and staff requests authority to increase the contract by the further amount of \$3,927,676 (approximately 9.5%) through contract modification, if needed, for unanticipated contingencies, to fund the Phase 1 construction trade subcontractor packages, including shed demolition and the design-build shoreside power relocation. The contract amount plus the contingency would be a total authorization of \$45,408,424.

Previously Authorized:

Resolution 11-45 (6/14/11)	\$ 3,939,251 for CM/GC services
Resolution 11-59 (9/13/11)	\$ 6,050,000 for steel trade package
Total Authorization to Date:	\$ 9,989,251

Current Requested

<i>Increase</i>	<u>\$31,491,497</u> for Phase 1 construction trade packages,
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Total contract amount:	\$41,480,748 not-to-exceed amount
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Construction contingency: \$ 3,927,676

Total Proposed Authorization: \$45,408,424

Of the Total Proposed Authorization, \$3,927,676 be reserved for a contingency fund, if needed, for future contract increases due to unanticipated conditions.

For these trade packages, the Local Hire participation level has been set at 20% with a goal of no less than 10% of Project work hours to be performed by disadvantaged workers. The Local Business Enterprise ("LBE") goal for this Project is 17% of the total value of the entire contract, except for work funded by the Federal Emergency Management Agency ("FEMA"). The goal must be met with LBE firms that are certified as LBE firms by the Human Rights Commission.

However, there are certain scopes of work funded by the FEMA security grant which will be procured using federal guidelines. These scopes of work have a Disadvantaged Business Enterprise goal of 25%.

2) DPW Services

The Port has arranged, through the MOU, for DPW to manage the Project through the completion of construction drawings. Port staff now proposes that DPW provide additional services through the completion of Phase 1 Project construction. DPW estimates these additional services to be in the amount of \$3,894,603 or a total revised cost of \$7,778,267. DPW services include:

- Project management services;
- City administrative services, including legal fees, and advertisements for services, including permit fees and special inspections;
- Architectural and engineering design services;
- Specialized consulting services, including geotechnical services and surveys, needed during Phase 1;
- City construction management services;
- Commissioning (i.e., testing and installation) of the Phase 1 mechanical systems; and
- Program contingency.

DPW will continue to manage all of the Project consultants, including the Design Team, through Phase 1 construction completion. To accomplish this, Port staff requests authorization to extend the MOU term to April 1, 2013.

The total amount of proposed DPW services is:

Previously Authorized:

Resolution 09-33 (6/10/09)	\$1,772,147	through design development
Resolution 11-50 (7/12/11)	<u>\$2,111,517</u>	through construction drawings
Total Authorization to Date:	\$3,883,664	

Current Requested
Increase to Contract: \$3,894,603 *through Phase 1 construction*

Total Proposed Authorization: \$7,778,267

3) Design Team Services

The Port Commission has approved of Design Team services through Phase 1 and 2 construction drawings. Staff seeks further authorization at this time to amend the agreement with the Design Team to include all additional services needed for bidding and construction administration of the Phase 1 subcontracting process. It is anticipated that Design Team Phase 1 construction administration services would begin in January 2012 and continue through Phase 1 completion in March 2013. In addition, this proposed contract amendment would allow the Design Team to perform all necessary work associated with document and bid preparation for Phase 2 construction. The only work not covered in this proposed contract amendment is the Phase 2 construction administration.

The LBE goal for this Design Team contract is 15% of the total value of the entire contract. As of October 31, 2011, the Design Team has achieved 44.3% LBE participation.

Therefore, Port staff proposes to amend the Design Team contract to include services for Phase 1 construction administration, and increase the contract fee from \$8,110,903 to an amount not to exceed \$8,888,292, which consists of an increase of \$777,389, and Port staff request authority for a contingency fund of \$285,000 (approximately 3.2%), if needed, for unforeseen design and related services. The contract amount plus the contingency funds would equal a total proposed authorization of \$9,173,292.

In addition, to allow the Design Team to perform Phase 1 construction administrative services, as well as document and bid preparation for Phase 2, Port staff requests authorization to extend the contract duration to April 1, 2013.

The total amount of proposed Design Team services is:

Previously Authorized:
Resolution 09-70 (11/10/09) \$2,661,384 *through schematics*
Resolution 11-22 (4/12/11) \$2,410,070 *through design development*
Resolution 11-50 (7/12/11) \$3,039,449 *through construction drawings*
Total Authorization to Date: \$8,110,903

Requested Increase To
Contract Fee: \$ 777,389 *through Phase 1 construction,*

Total Contract Amount: \$8,888,292 *not to exceed amount*

Contingency: \$ 285,000

Total Proposed Authorization: \$9,173,292

Of the Total Proposed Authorization, \$285,000 would be reserved as a contingency amount.

PHASE 1 BUDGET: ESTIMATED SOURCES AND USES

In its April 21, 2011 report to the Board of Supervisors, Port staff estimated the total Phase 1 Project Cost was \$58,187,107. With the inclusion of the estimated \$1.9 million cost of shoreside power relocation to support the Event, Port staff presented to the Board of Supervisors¹ a Phase 1 Project budget of \$60,162,039. Under the HVA, the Event Authority is to contribute up to a maximum of \$2 million towards relocation of a portion of the shoreside power system. Port staff now proposes to perform this work, to relocate the shoreside power system, through the CM/GC contract with Turner Construction Company as a subcontractor design-build trade package with the Event Authority providing reimbursement to the Port.

Under the HVA, the Event Authority was responsible for demolition of the Pier 27 shed and the portion of Pier 29 shed. This cost was not included in the April 21, 2011 report to the Board of Supervisors. The April 2011 \$60,162,039 Phase 1 Project budget was estimated by the Design Team based on schematic design.

The proposed Phase 1 project budget has been revised based on more detailed drawings by the Design Team and verified by the CM/GC. As a result of negotiations with the Event Authority, the Phase 1 Project Budget now assumes that the Port will be responsible for the scope and cost of demolition. Based on these assumptions, the estimated cost of the Phase 1 Project Budget is \$61,000,000.² Much of the demolition cost will be absorbed from construction contingency under the CM/GC contract.

However, the \$61,000,000 budget does not include the cost of Phase 2 design work that has already been incurred for the terminal building (i.e., the Design Team has designed and engineered the entire terminal building, but there will be portions such as the U.S. Customs and Border Protection area which will be constructed in Phase 2). Accounting for these Phase 2 design costs, \$1,359,983 has been authorized and expended to date. The total estimated project cost (i.e., Phase 1 design and construction costs plus Phase 2 design costs) is now revised to \$62,359,983.

The budget numbers are estimates based on construction drawings that have been provided by both the Design Team and the CM/GC. When the CM/GC is able to bid and award the subcontractors trade packages will Port staff have precise budge numbers for each package. The budget contingency is intended to resolve unanticipated increases.

¹ Port staff presented these numbers to the Port Commission as an informational item at the April 26, 2011 hearing.

² The Phase 1 Project Budget will be updated once subcontractors' trade packages are awarded.

Table 1: Phase 1 Cruise Terminal Budget: Estimated Sources and Uses**SOURCES OF FUNDS**

Secured – Port	\$31,876,131
Watermark Condominium Sale Proceeds	\$20,065,423
Series A&B 2010 Port Revenue Bonds	\$10,139,456
Operating Budget: Workorder, including prior year carry forward	\$295,905
FY 2011-12 Capital Budget Appropriations	\$1,375,347
Secured – Other	\$3,166,850
Event Authority Contribution to shoreside power relocation	\$2,000,000
FEMA Security Grant	\$1,166,850
Planned – Port	\$19,017,002
2012 Port Debt	\$15,500,000
FY 2012-13 Capital Budget Appropriation	\$3,517,002
Proposed - Port/Other	\$8,300,000
Repurpose Existing 2010 Debt*	\$1,800,000
City Contribution	\$6,500,000

Total Sources: **\$62,359,983**

* Costs associated with the Northeast Wharf Plaza park design will be repaid should the voters approve the proposed G.O. Bond in 2012 for Phase 2 use.

USES OF FUNDS

Construction:	\$40,257,833
Construction Contingency:	\$3,927,676
Construction Manager/General Contractor Services	\$1,222,915
Total Construction:	\$45,408,424
Design Team Services	\$9,173,292
Department of Public Works Services	\$7,778,267
Total Soft Costs:	\$16,951,559
<u>Total Uses:</u>	<u>\$62,359,983</u>
Less: Design Team Phase 2 costs included above	\$1,359,983
Uses, less Phase 2 costs	\$61,000,000

FUNDING SOURCES

As proposed by Port staff, increased funding for DPW services under the Third Amendment of the MOU described above, the revised Design Team contract, and the amended Turner contract to complete Phase 1 construction, including trade bid packages, will be provided by a combination of the Watermark condominium sale proceeds, previously issued Port revenue bonds, future debt, a City contribution and other sources noted above.

CEQA

On December 1, 2011, the Environment Planning Division of the San Francisco Planning Department completed a Final Environmental Impact Report ("EIR") for the 34th America's Cup and the Pier 27 James R. Herman Cruise Terminal and Northeast Wharf Plaza project. The San Francisco Planning Commission will consider certification of the Final EIR on December 15, 2011. If the Final EIR is certified, Port staff will seek approval of the Project and the authorization to implement Phase 1 construction for the Project.

Before the Port Commission can approve of any implementation items for the Project, it must review and consider the EIR information and adopt CEQA Findings. The CEQA Findings describe the Project and Final EIR regarding the Project's significant environmental impacts, required mitigation measures, alternatives studied in the EIR, reasons for rejecting alternatives and selecting the Project, and overriding considerations that outweigh any significant environmental effects that could not be remedied by mitigation measures. The CEQA Findings are presented as Attachment A to Resolution No. 11-75 and the Mitigation Monitoring and Reporting Program ("MMRP") is presented as Attachment B to Resolution No. 11-75. The MMRP describes each required mitigation measure and how it would be implemented by the Port or its contractors, to avoid significant environmental impacts during construction and operation of the cruise terminal and Northeast Wharf Plaza.

TENANT RELOCATION

In advance preparation for the 34th America's Cup and the James R. Herman Cruise Terminal / Northeast Wharf Plaza project, Port staff has been in close communications with potentially displaced tenants at the Pier 27-29 site. These issues are addressed in a separate agenda item which also will be considered for Port Commission approval on December 16, 2011.

NEXT STEPS

Regulatory Approvals

The Port has been working closely with the San Francisco Bay Conservation and Development Commission ("BCDC") staff regarding the various approvals required for this Project, coordinated with the BCDC approvals required for the 34th America's Cup because of the phased implementation of the cruise terminal building construction. The

proposed use of Pier 27 for a cruise terminal conflicts with certain policies of BCDC's San Francisco Waterfront Special Area Plan ("SAP"). The Port has submitted proposed SAP amendments to resolve the conflicts, which require approval by BCDC. In addition, the Port must secure a BCDC permit for demolition of the Pier 27 shed, and a Major Permit to allow construction of the cruise terminal and Northeast Wharf Plaza.

The Project has been reviewed by BCDC's Design Review Board ("DRB") and the City's Waterfront Design Advisory Committee ("WDAC") in two meetings to date. The DRB/WDAC jointly recommended approval of the design of the cruise terminal on May 9, 2011. The DRB/WDAC is scheduled to review the Northeast Wharf Plaza and the public access plan on January 9, 2012.

The Port is working with BCDC to secure approval of the Pier 27 demolition work soon after certification of the Final EIR. The SAP amendment process, described below, is currently scheduled to be completed in February, and must occur before a BCDC Major Permit can be approved to allow Phase 1 construction.

In May 2011, Port staff provided the Port Commission a briefing on the SAP amendments, and received authorization to enter into an MOU with BCDC for staff time to process the SAP application. In brief, the core policy issue at the heart of the SAP amendments is the Northeast Waterfront Open Water Basin, between Piers 19 and 27. Current SAP policies require development of the Northeast Wharf Plaza, removal of the eastern end of the Pier 23 shed, and restrictions on the size of ships that berth along Pier 27 to preserve broad public views from the Northeast Wharf Plaza. The Port has proposed that the Pier 23 shed be retained in its entirety. The proposed use of Pier 27 for cruise ships is not consistent with ship size limits set in the SAP. The Port's proposed SAP amendments are included in the Final EIR and focus on the Port's providing a package of public benefits that offset the Project's conflicts with existing policies, as summarized below:

- **Pier 27 Shed and East Wall of Pier 29.** Remove the northeast portion of the Pier 27 shed and reconstruct the east wall of Pier 29 consistent with Secretary of Interior's Standards.
- **Beltline Piazza.** Either in conjunction with construction of Phase 2 improvements to the James R. Herman Cruise Terminal, or at a later date determined jointly by BCDC and the Port, increase the size of Northeast Wharf Plaza to include a Beltline piazza adjacent to the Embarcadero Promenade.
- **Open Space at End of Piers 27-29.** Submit a plan for review by the BCDC Design Review Board and the Waterfront Design Advisory Committee for use of the open space at the end of Piers 27 and 29 resulting from the removal of the northeastern portion of Pier 27 that addresses wind impacts in this location and provides for public assembly, active recreation, water-oriented recreation, or other uses that take advantage of the panoramic views at this location.
- **Phased Public Access Improvements, Piers 27, 29, 31, 33.** Implement phased public access improvements to the Pier 27 and the Pier 29 north apron and provide public access though Pier 29 or Pier 29½ to the Pier 29 apron, including a Bayside History Walk, triggered by a major permit for a new long-term lease or

major rehabilitation project at Pier 29 or Pier 29½ or an earlier date agreed by BCDC and the Port. Implement phased public access improvements to the Piers 31-33 areas, triggered by a major permit for a new long-term lease or major rehabilitation project at Pier 31 or Pier 33 or an earlier date agreed to by BCDC and the Port.

- ***Open Water Basin at Piers 29-31.*** Submit a plan for review by the BCDC Design Review Board and the Waterfront Design Advisory Committee for a new Open Water Basin at Piers 29-31, and potentially to Pier 33, that provides for water-oriented recreation access, triggered by a major new lease at one or more of these locations.
- ***Easternmost Portion of Pier 23 Shed.*** If the Open Water Basin at Piers 29-31 (or Pier 33) and the open space at the end of Pier 29 are approved by BCDC, eliminate the requirement to remove the easternmost 315 feet of the Pier 23 shed.
- ***Phased Improvements to the Pedestrian and Bicycle Experience.*** Develop design standards for phased improvements to the pedestrian and bicycle experience on the east and west side of The Embarcadero from China Basin to Fisherman's Wharf, in consultation with the San Francisco Planning Department, SFMTA, and BCDC, and, for the east side of The Embarcadero, in consultation with the BCDC Design Review Board. These standards would improve the pedestrian experience by building wider sidewalks that allow for improved landscaping, public seating and opportunities for public art, with pedestrian bulb-outs, consistent with the City's *Better Streets* guidelines. On the west side of The Embarcadero, the pedestrian experience would be enhanced by a series of open spaces, triggered by adjacent development.
- ***New Openings to View the Bay through Pier 19½.*** Implement phased, new openings to view the Bay through Pier 19½, or phased removal of Pier 19½ in its entirety, with the option to build new maritime or other trust-consistent facilities, including structures to support such uses within a portion of the existing footprint of Pier 19½, in the Piers 19-23 basin. Such phased improvements would require reconstruction of the north wall of the Pier 19 bulkhead and the westernmost portion of the Pier 19 shed, consistent with the Secretary of Interior's Standards, and public access along the Pier 19 north apron, the Pier 19½ apron and the Pier 23 south apron, including a Bayside History Walk, timed with a new long-term lease of Piers 19-23 or an earlier date agreed by BCDC and the Port.
- ***Pier 43 Promenade and Plaza Project.*** By a date to be determined jointly by BCDC and the Port, expand the Pier 43 Promenade Project to incorporate the renovation of the public plaza at the Pier 43 Historic Arch and adjacent areas, consistent with the Secretary's Standards, to further improve public access and views along the Fisherman's Wharf shoreline. For purposes of this requirement, no improvements that trigger a seismic upgrade will be required.

BCDC initiated the SAP amendments in May 2011 which are under review. The amendments are expected to be scheduled for public hearing by the BCDC Commission in January 2012, and action in February 2012, followed by BCDC action on a Major Permit in early March 2012.

Phase 2 Development

When the 34th America's Cup Event has ended and Piers 27 and 29 are returned to the Port, the Port will start the Phase 2 construction of the Project. Phase 2 will consist of completion of the remaining portions of the cruise terminal building (e.g., the U.S. Customs and Border Protection and security rooms), installation of maritime equipment such as the mobile gangway system, fenders and bollards, completion of the battery charging station and operations area within Pier 29, and completion of improvements to the Northeast Wharf Plaza and the ground transportation area.

Funding for Phase 2 development requires additional staff work. In April 2011, Port staff reported to the Port Commission that there are potential fund sources including the FEMA security grant, a planned 2012 Port revenue bond issuance, as well as proposed General Obligations Bond proceeds, Cruise Operator Contribution and a Cruise Passenger Facility Charge. Port staff will prepare a Phase 2 construction budget and a Phase 2 funding plan during 2012 and present it to the Port Commission for review and approval.

The current Project schedule assumes that Phase 2 construction would commence in May 2014 and would require further Port Commission authorization. Phase 2 Project construction is anticipated to be completed by late 2014.

Terminal/Event Management Agreement

The current cruise terminal management agreement with Metro Cruise Services will expire on April 30, 2014. Port staff is exploring options for how the cruise terminal operation will be managed for both Pier 27 and Pier 35. One option under consideration is a new cruise terminal/event management agreement to operate cruise calls as well as to organize and coordinate special events on Pier 27. The second option would be to execute separate agreements for the cruise terminal and event management.

The goal is to maximize the number of cruise calls at the Pier 27 facility, while on non-cruise days optimize the use of the facility and open areas for special events. These events could include off-site convention center activities, corporate parties, fund-raising events, maritime-related events, private parties such as weddings, consumer shows, etc. It is also possible that other special events might be sited within the ground transportation area, such as occasional food trucks, craft makers, outdoor film screenings, boat display shows, etc. Port staff will continue to refine these opportunities and options and will return to the Port Commission for further consideration.

CONCLUSIONS AND RECOMMENDATIONS

The Port's goal to develop a new cruise terminal has a long history, which has been refined and improved in collaboration of the City and the community, particularly with the inclusion of the Northeast Wharf Plaza. The opportunity to integrate the cruise terminal with the 34th America's Cup adds to the creation of another unique destination along its waterfront. With great appreciation to the Port's waterfront stakeholders, Port staff requests Port Commission approval of the following matters:

- 1) Adoption of CEQA Findings and a Mitigation Monitoring and Reporting Program in connection with the authorization of construction contracts and associated approvals to implement the Project;
- 2) Approval of a Third Amended Memorandum of Understanding (MOU) with the San Francisco Department of Public Works (DPW) to increase the MOU funding from the existing amount of \$3,883,664, to a total amount not to exceed \$7,778,267, which amounts to an increase of \$3,894,603, for Phase 1 construction administration services and other services, and to extend the MOU term to April 1, 2013;
- 3) Approval of a contract amendment with the Design Team to include services for Phase 1 construction administration, increase the amount of the contract from \$8,110,903 to an amount not to exceed \$8,888,292, which consists of an increase of \$777,389, to extend the term to April 1, 2013, and authorize a contingency fund of \$285,000 (approximately 3.2%) for unforeseen design and related services; and
- 4) Approval of an amendment to the CM/CG contract to increase the contract amount from \$9,989,251 to \$41,480,748, which consists of an increase of \$31,491,497, and to authorize staff to further increase the contract amount by \$3,927,676 (approximately 9.5%) through contract modification or change order, if needed for unanticipated contingencies, for Phase 1 Project construction trade subcontractor packages, including shed demolition and the design-build shoreside power relocation.

Separate resolutions are attached for each of these actions.

As proposed by staff, these amendments would be funded by a combination of funding sources noted above in Table 1.

Prepared by: John Doll, Project Manager
Planning & Development

Kim von Blohn, Project Director
Engineering

For: Byron Rhett, Deputy Director
Planning & Development

Ed Byrne, Chief Harbor Engineer
Engineering

Peter Dailey, Deputy Director
Maritime

Attachments:

- Phase 1 Site Plan
- Project Site Plan
- Cruise Terminal Building Floor Plan
- Rendering of Cruise Terminal

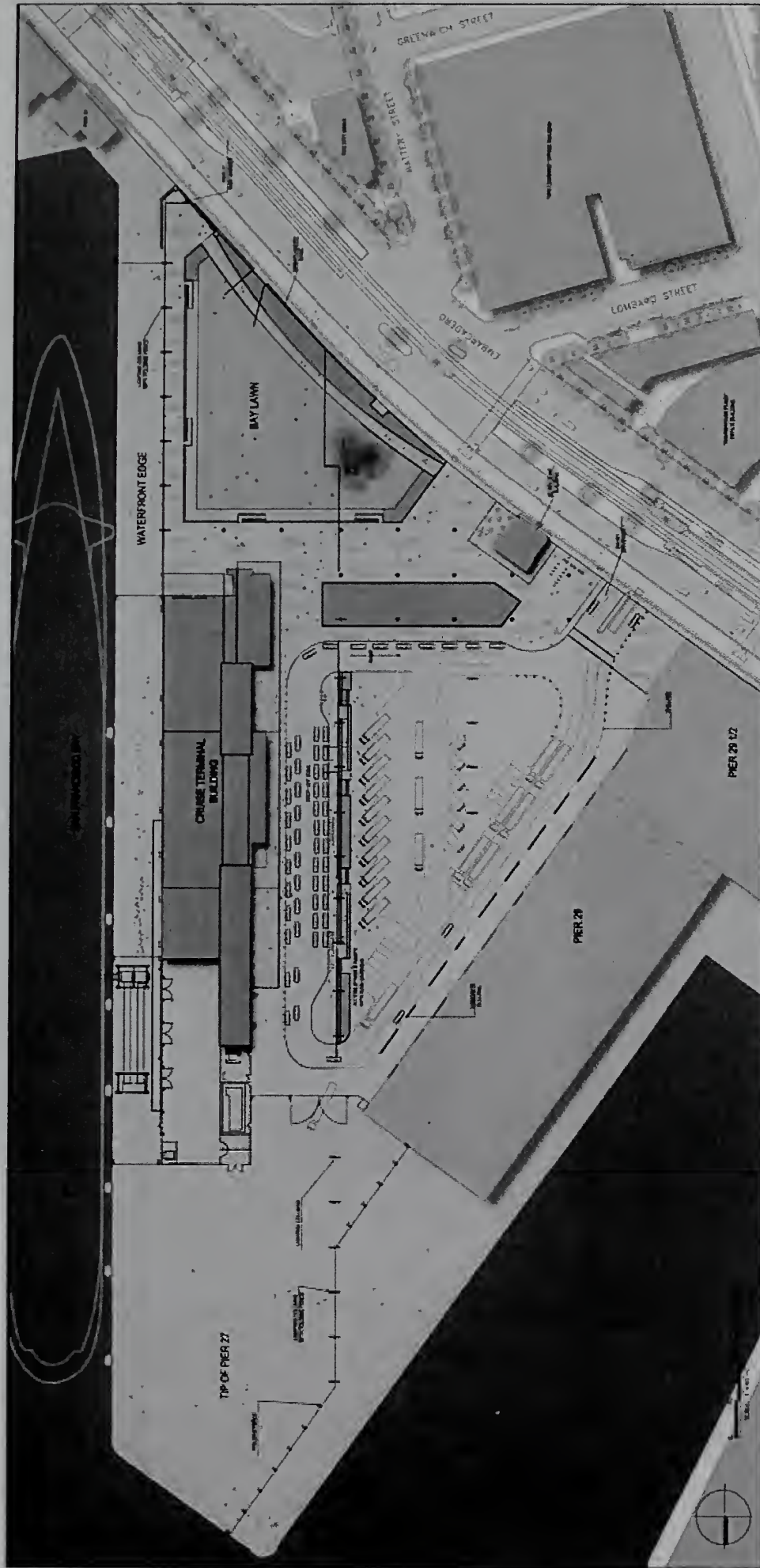
Resolution 11-75

- Attachment A: CEQA Findings
- Attachment B: Mitigation Monitoring and Reporting Program

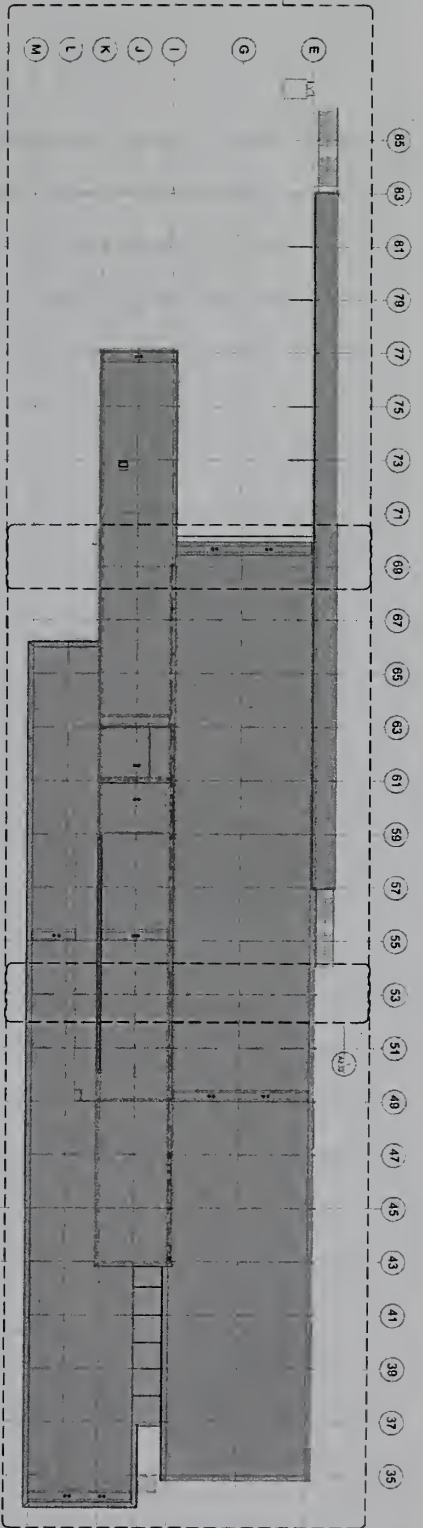
Resolution 11-76

Resolution 11-77

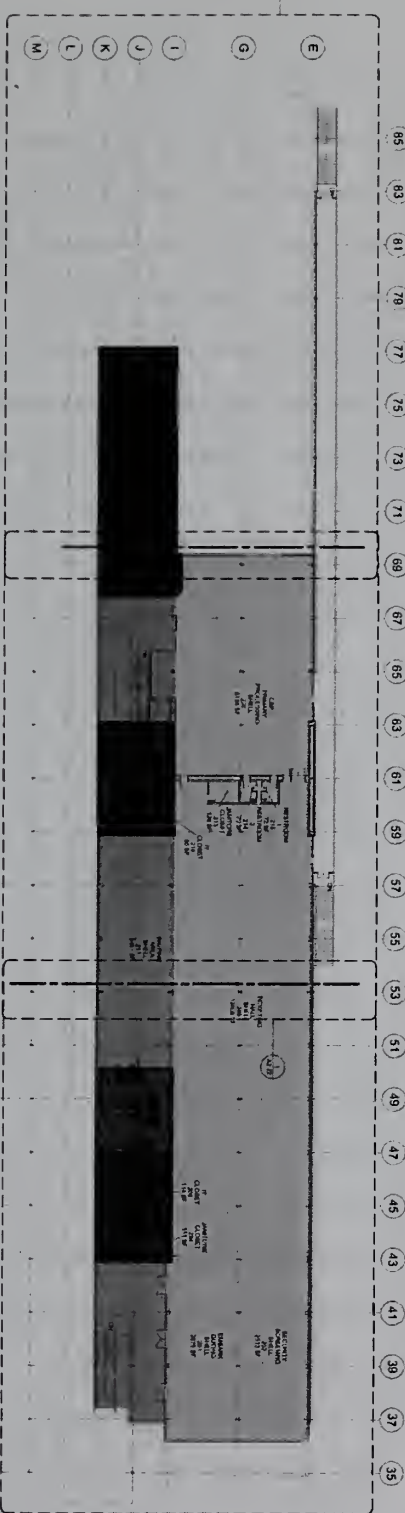
Resolution 11-78



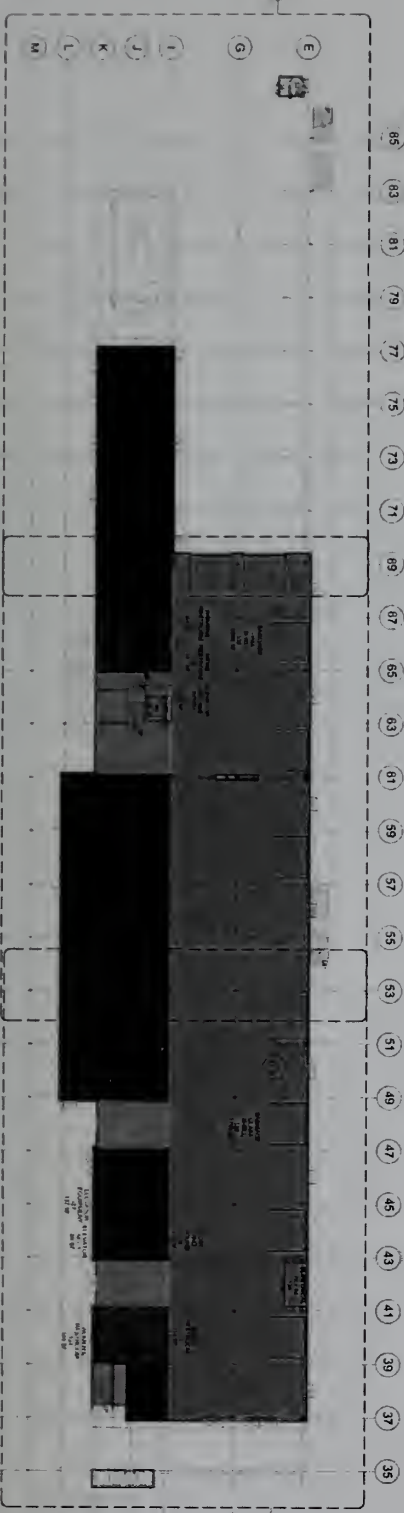
PIER 27 JAMES R. HERMAN CRUISE TERMINAL



3 KEY PLAN - LEVEL 1
SCALE 1/4" = 1'-0"



2 KEY PLAN - LEVEL 2
SCALE 1/4" = 1'-0"



1 KEY PLAN - LEVEL 1
SCALE 1/4" = 1'-0"

PRIMARY

- multipurpose hall
- baggage hall

SECONDARY

- thresholds / waiting
- restrooms
- back of house





PIER 27 JAMES R HERMAN CRUISE TERMINAL

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 11-75

WHEREAS, The James R. Herman Cruise Terminal and Northeast Wharf Plaza ("Project"), sponsored by the Port of San Francisco, will develop a new cruise terminal and 2.5 acre public park, the Northeast Wharf Plaza, at Pier 27-29, a 14.8 acre site located on The Embarcadero at Bay Street, San Francisco, requiring the demolition of the existing Pier 27 shed and a portion of the eastern end of Pier 29 shed; and

WHEREAS, On December 15, 2011, by Motion No. _____, the San Francisco Planning Commission certified the 34th America's Cup & James R. Herman Cruise Terminal and Northeast Wharf Plaza Final Environmental Impact Report ("Final EIR"), Planning Department Case No. 2010.0493E, as complete and its contents and the procedures through which it was prepared, publicized and reviewed complied with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000 *et seq.*, "CEQA"), the State CEQA Guidelines (Cal. Admin. Code title 14, §§ 15000 *et seq.*, "CEQA Guidelines"), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"); and

WHEREAS, The Port Commission has reviewed and considered the information contained in the Final EIR, all written and oral information provided by the Planning Department, the public, relevant public agencies and the administrative files for the Project and the Final EIR; and

WHEREAS, The Project and Final EIR files have been made available for review by the Port Commission and the public, and those files are part of the record before the Port Commission; and

WHEREAS, The Planning Department is the custodian of records, located in Case Number 2009.0418E, and those files are part of the record before this Port Commission; and

WHEREAS, Port staff has prepared proposed findings, as required by CEQA ("CEQA Findings"), which are attached to this resolution as Attachment A, and a Mitigation Monitoring and Reporting Program ("MMRP"), which is attached to this resolution as Attachment B; and

WHEREAS, The CEQA Findings and the MMRP were made available to the public and the Port Commission for the Port Commission's review, consideration and action; now therefore, be it

RESOLVED, The Port Commission has reviewed and considered the Final EIR and hereby adopts the CEQA Findings and for the Project and incorporates

those findings, including the Statement of Overriding Considerations, in this resolution by this reference; and, be it further

RESOLVED, The Port Commission, in exercising its independent judgment, has relied upon and reviewed the information contained in the CEQA Findings, which describe the Project and Final EIR, and hereby rejects alternatives to the Project for the reasons set forth in the CEQA Findings; and, be it further

RESOLVED, The Port Commission hereby adopts the CEQA Findings and the MMRP as the required mitigation measures to be implemented as part of the Project, where the Port Commission finds that: (1) implementation of the Mitigation Measures will eliminate or substantially lessen significant effects of the Project on the environment; and (2) all of the Mitigation Measures are feasible, and hereby adopts all Mitigation Measures as described in Attachment B in support of the approval of the James R. Herman Cruise Terminal and Northeast Wharf Project, including any other actions necessary to secure BCDC and other regulatory approvals to implement the Project, and construction implementation as further described in Resolution Nos. 11-76, 11-77 and 11-78.

I hereby certify that the foregoing resolution was adopted by the port Commission at its meeting of December 16, 2011.

Secretary

ATTACHMENT A

JAMES R. HERMAN CRUISE TERMINAL AND NORTHEAST WHARF PLAZA AT PIER 27 PROJECT

CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS: FINDINGS OF FACT, EVALUATION OF MITIGATION MEASURES AND ALTERNATIVES, AND STATEMENT OF OVERRIDING CONSIDERATIONS

SAN FRANCISCO PORT COMMISSION

In determining to approve the James R. Herman Cruise Terminal and Northeast Wharf Plaza At Pier 27 Project described in Section I, Project Description below, (referred to here as both the "Project" and the "Cruise Terminal Project Variant") the San Francisco Port Commission ("Port Commission") makes and adopts the following findings of fact and decisions regarding the Project description and objectives, significant impacts, mitigation measures and alternatives, and adopts the statement of overriding considerations, based on substantial evidence in the whole record of this proceeding and under the California Environmental Quality Act ("CEQA"), California Public Resources Code Sections 21000 *et seq.*, particularly Sections 21081 and 21081.5, the Guidelines for Implementation of CEQA ("CEQA Guidelines"), 14 California Code of Regulations Sections 15000 *et seq.*, particularly Sections 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code. These findings comprise **Attachment A** to Port Resolution No. 11-75 ("Port Approval Resolution"), dated December 16, 2011. The Port Commission adopts these findings as part of the Port Approval Resolution and has incorporated these findings therein by reference.

This document is organized as follows:

Section I provides a description of the Project proposed for adoption, the environmental review process for the Project, the approval actions to be taken, and the location of records;

Section II identifies the impacts found not to be significant that do not require mitigation;

Section III identifies potentially significant impacts that can be avoided or reduced to less-than-significant levels through mitigation and describes the disposition of the mitigation measures;

Section IV identifies significant impacts that cannot be avoided or reduced to less-than-significant levels and describes any applicable mitigation measures as well as the disposition of the mitigation measures;

Section V evaluates the different Project alternatives and the economic, legal, social, technological, and other considerations that support approval of the Project and the rejection of the alternatives or elements of the alternatives analyzed; and

Section VI presents a statement of overriding considerations setting forth specific reasons in support of the Commission's actions and its rejection of the alternatives not incorporated into the Project. The Project is analyzed as the "Cruise Terminal Project Variant" in the 34th America's Cup & James R. Herman Cruise Terminal and Northeast Wharf Final EIR, Case No. 2010.0493E, certified by the San Francisco Planning Commission on December 15, 2011 ("Final EIR"). A Mitigation Monitoring and Reporting Program ("MMRP") containing the Final EIR mitigation measures proposed for adoption is attached as **Attachment B** to the Port Approval Resolution. The MMRP is required by CEQA Section 21081.6 and CEQA Guidelines Section 15091. The MMRP provides a table setting forth each mitigation measure listed in the Final EIR that is required to reduce or avoid a significant adverse impact. The MMRP also specifies the agency responsible for implementation of each measure and establishes

monitoring actions and a monitoring schedule. The full text of the mitigation measures is set forth in the MMRP.

These findings are based upon substantial evidence in the entire record before the Port Commission. The references set forth in these findings to certain pages or sections of the Draft Environmental Impact Report ("Draft EIR"), the Comments and Responses document, and in the Final EIR are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings. The Draft EIR and the Comments and Responses document, along with any Errata Sheets, comprise the Final EIR.

I. APPROVAL OF THE PROJECT

A. Project Description

By this action, the Commission approves the Project, which comprises physical improvements, uses, and operations planned for the improvements at Pier 27-29, a 14.8 acre pier under the jurisdiction of the San Francisco Port Commission, located at The Embarcadero near Bay Street in the northeast waterfront. The improvements and activities that constitute the Project are fully addressed in the Final EIR, including updates and refinements specifically defined in the "Cruise Terminal Project Variant", described in Chapter 11 of the Final EIR, which is the Project approved by the Port Commission. These CEQA findings for the Project support the Port Commission's approval of all design, construction and funding requirements necessary to implement the Project.

The Project involves the development of a new passenger cruise terminal at Pier 27 designed to meet modern ship and operational requirements of the cruise industry. Currently, the Port's primary cruise terminal is located at Pier 35, and Pier 27 serves as a secondary terminal when there are multiple cruise calls. Pier 35 has become increasingly constrained for accommodating modern cruise ship operations. Under the Project, Pier 27 will become the primary cruise terminal, and Pier 35 will be retained as a secondary terminal. In concert with the Cruise Terminal facility, the Port will construct the Northeast Wharf Plaza, a public open space along the west end of Pier 27, consistent with the policies of BCDC's *San Francisco Waterfront Special Area Plan*.

Site and construction planning for the Project has been coordinated with improvements programmed for Pier 27-29 to support the 34th America's Cup (AC34) international sailboat racing competition. If separately approved by the Port Commission and the City, the AC34 project will include Pier 27-29 as the America's Cup Village ("AC Village") during the 2013 race events. Under a Host and Venue Agreement between the America's Cup Event Authority and the City, the creation of the AC Village will require demolition of the entire Pier 27 shed and a portion of Pier 29 shed. Phase 1 of the Cruise Terminal construction will house a portion of the AC34 entertainment and hospitality activities of the AC Village. After conclusion of AC34, Phase 2 of the Project will be constructed, which will include full buildout of the Cruise Terminal building to function for cruise ship operations and construction of the landscaping and open space improvements for the Northeast Wharf Plaza. The Final EIR thus evaluated the impacts associated with the Project and the AC34 project due to their interrelated construction and shared use.

For Cruise Terminal operations, the Final EIR assumes the Port will receive 80 ship calls per year, which represents the high end of the range of 40 to 80 calls that currently occur annually. In anticipation of the current trends in the cruise ship industry towards larger cruise ships, the Project is designed to better accommodate newer, larger ships holding larger numbers of passengers than are currently served at Pier 35. The Cruise Terminal building will be sited within the larger footprint of the existing Pier 27 shed,

which will be demolished in its entirety as part of the AC34 project. The Cruise Terminal building will contain a large baggage claim area; check-in and waiting/seating areas, Customs and Border Protection and other security offices, processing and screening facilities, storage, utilities, and other facilities. The existing shoreside power substation at Pier 27 will be decommissioned during the end of the events of the AC34 project, and during the Phase 2 construction period of the Project. The shoreside power facility will be relocated onsite and upgraded from 12 megawatts (MW) to 20 MW to support larger cruise ships starting with the 2014 cruise season.

Vehicular access to and from The Embarcadero will be provided at a new driveway located just south of the Pier 29 shed. This access point will provide direct connection to the cruise facility's ground transportation area located within the center of the triangular-shaped pier. The approximately 3-acre ground transportation area will provide off-street space for access, drop-off, and exiting by trucks, taxis, buses, and passenger vehicles, to remove congestion on The Embarcadero such as currently created by the Pier 35 cruise terminal. A separate provisioning area located east of the cruise terminal building will accommodate access and staging for loading by large trucks, buses and delivery vehicles, consistent with federal security regulations.

The approximately 2½-acre Northeast Wharf Plaza will be located along the west end of Pier 27, fronting The Embarcadero promenade. The plaza site will be created with the demolition of Pier 27 shed in Phase 1 and be initially improved to support the AC Village. The design includes a large lawn, walkways and landscaping, a "piazza" feature that integrates the historic Pier 29 Belt Line office building. The updated concept design for the plaza is described and analyzed in Chapter 11 of the Final EIR.

Additional Components of the Project as Described in Chapter 11 of the Final EIR

As discussed above, the Project approved by the Commission is described as the Cruise Terminal Project Variant in Chapter 11 of the Final EIR. As such, the Project includes a number of updates and refinements that differentiate it from the Draft EIR Cruise Terminal project described in the Draft EIR. These updates and refinements are summarized here.

Under the Project, the proposed provisioning area, and associated security fencing and vehicle circulation would provide for public access on the west side of Pier 29 on all days, regardless of whether a cruise ship is in port. The provisioning truck access circulation would be shifted towards the Pier 27 portion of the pier to serve the reconfigured provisioning area. The Cruise Terminal sally port and security gate fencing would be configured such that only a portion of the area at the end of Piers 27-29 would be closed off when a cruise ship is in port, instead of closing off the entire end of Piers 27-29 as under the Draft EIR Cruise Terminal project. As with the proposed security fence proposed along the Pier 27 apron, the configured security fence at the end of Piers 27-29 would be retracted to allow free passage by the public to this area from the Ground Transportation Area when a cruise ship is not in port. The provisioning area immediately northeast of the Pier 27 cruise terminal building would not be available for public access except for designated perimeter walkways connecting to the Pier 27 apron, which would be open to the public on non-cruise days.

Under the Project, the proposed cruise terminal driveway is moved to the south by approximately 30 feet, consistent with Mitigation Measure M-TR-83 in the Draft EIR. This relocation would provide additional distance for vehicles exiting the Cruise Terminal site to access the northbound left turn pocket at the approach to Chestnut and Sansome Streets without blocking the adjacent travel lane.

The Project also includes refinements to the design of the Northeast Wharf Plaza. The Draft EIR Cruise Terminal project proposed several ancillary structures for commercial and recreational services (e.g., snacks, bike rentals) in the park/piazza design. Under the Project, no commercial or recreational service structures would be constructed at the Northeast Wharf Plaza. However, the Project includes potential future construction of a restroom facility structure within the landscaped buffer area between the plaza and the proposed Cruise Terminal Ground Transportation Area.

Shared Uses

The Cruise Terminal building also will accommodate shared uses in down times between cruise ship calls. These shared uses could include events such as conferences, public or private gatherings, and maritime-oriented events. It is estimated that up to 100 shared-use events could occur at the cruise terminal site annually.

Port Tenant Relocation

The Project requires the relocation of existing tenants currently leasing and occupying Pier 27-29 pier shed and facilities. A description of Pier 27 tenant displacement and relocation is included in a discussion on pp. 3-85 and 86 of the Final EIR. In support of these actions, the Port Commission will approve a Tenant Relocation Plan, as required by state law, which sets forth relocation benefits available to those vacating facilities.

BCDC Plan Amendments

As part of the Project, the Port has proposed amendments to the San Francisco Bay Conservation and Development Commission ("BCDC") Special Area Plan ("SAP"), an element of the San Francisco Bay Plan. Any such revisions to the Special Area Plan also will involve amendments to the Port's Waterfront Land Use Plan to maintain consistent policies of the two agencies. The proposed amendments are required to build the proposed James R. Herman Cruise Terminal and the Northeast Wharf Plaza and to allow berthing of cruise vessels in the Northeast Wharf Open Water Basin. The Project updates in Chapter 11 of the Final EIR present an updated description the SAP amendments, which would deliver a package of public benefits to expand and improve waterfront public access to offset public benefit reductions caused by the Project to the Northeast Wharf Open Water Basin and existing policies in the SAP.

The list below summarizes the proposed package of public benefits to replace the public benefits agreed to by the Port and BCDC with adoption of the 2000 amendments to the SAP, subject to funding availability and agreement by BCDC and the Port as to timing of implementation. As part of the SAP amendment review process, fill removal sites will be considered. The following fill removal sites were analyzed in the Draft EIR: Pier 98 LASH Terminal, Pier 84 and 88 along Islais Creek, Pier 70, Wharves 6, 7 and 8 and area adjacent to Pier 68, Pier 64, and the former site of Carmen's restaurant in China Basin channel. In addition, Chapter 11 of the Final EIR analyzed Pier ½ north of the Ferry Building as a possible fill removal site.

- **Pier 27 Shed and East Wall of Pier 29.** Remove the northeast portion of the Pier 27 shed and reconstruct the east wall of Pier 29 consistent with *Secretary's Standards*.
- **Beltline Piazza.** Either in conjunction with construction of Phase 2 improvements to the James R. Herman Cruise Terminal, or at a later date determined jointly by BCDC and the Port, increase the



size of Northeast Wharf Plaza to include a Beltline piazza adjacent to the Embarcadero Promenade.

- **Open Space at End of Piers 27-29.** Submit a plan for review by the BCDC Design Review Board and the Waterfront Design Advisory Committee for use of the open space at the end of Piers 27 and 29 resulting from the removal of the northeastern portion of Pier 27 that addresses wind impacts in this location and provides for public assembly, active recreation, water-oriented recreation, or other uses that take advantage of the panoramic views at this location.
- **Phased Public Access Improvements, Piers 27, 29, 31, 33.** Implement phased public access improvements to the Pier 27 and the Pier 29 north apron and provide public access through Pier 29 or Pier 29½ to the Pier 29 apron, including a Bayside History Walk, triggered by a major permit for a new long-term lease or major rehabilitation project at Pier 29 or Pier 29½ or an earlier date agreed by BCDC and the Port. Implement phased public access improvements to the Piers 31-33 areas, triggered by a major permit for a new long-term lease or major rehabilitation project at Pier 31 or Pier 33 or an earlier date agreed to by BCDC and the Port.
- **Open Water Basin at Piers 29-31.** Submit a plan for review by the BCDC Design Review Board and the Waterfront Design Advisory Committee for a new Open Water Basin at Piers 29-31, and potentially to Pier 33, that provides for water-oriented recreation access, triggered by a major new lease at one or more of any these locations.
- **Easternmost Portion of Pier 23 Shed.** If the Open Water Basin at Piers 29-31 (or Pier 33) and the open space at the end of Pier 29 is approved by BCDC, eliminate the requirement to remove the easternmost 315 feet of the Pier 23 shed.
- **Phased Improvements to the Pedestrian and Bicycle Experience.** Develop design standards for phased improvements to the pedestrian and bicycle experience on the east and west side of The Embarcadero from China Basin to Fisherman's Wharf, in consultation with the San Francisco Planning Department, SFMTA, and BCDC, and, for the east side of The Embarcadero, in consultation with the BCDC Design Review Board. These standards would improve the pedestrian experience by building wider sidewalks that allow for improved landscaping, public seating and opportunities for public art, with pedestrian bulb-outs, consistent with the City's Better Streets guidelines. On the west side of The Embarcadero, the pedestrian experience would be enhanced by a series of open spaces, triggered by adjacent development.
- **New Openings to View the Bay through Pier 19½.** Implement phased, new openings to view the Bay through Pier 19½, or phased removal of Pier 19½ in its entirety, with the option to build new maritime or other trust-consistent facilities, including structures to support such uses within a portion of the existing footprint of Pier 19½, in the Piers 19-23 basin. Such phased improvements would require reconstruction of the north wall of the Pier 19 bulkhead and the westernmost portion of the Pier 19 shed, consistent with the Secretary's Standards, and public access along the Pier 19 north apron, the Pier 19½ apron and the Pier 23 south apron, including a Bayside History Walk, timed with a new long-term lease of Piers 19-23 or an earlier date agreed by BCDC and the Port.
- **Pier 43 Promenade and Plaza Project.** By a date to be determined jointly by BCDC and the Port, expand the Pier 43 Promenade Project to incorporate the renovation of the public plaza at the Pier 43 Historic Arch and adjacent areas, consistent with the Secretary's Standards, to further improve public access and views along the Fisherman's Wharf shoreline. For purposes of this requirement, no improvements that trigger a seismic upgrade will be required.

B. Project Objectives

The objectives of the proposed Project are to:

- Design a new, modern cruise terminal that optimizes current and future operational needs and retains an important historic maritime use along San Francisco's northeastern waterfront that is compatible with and respects the physical form and characteristics defining the Embarcadero Historic District, which is listed on the National Register of Historic Places
- Provide a highly visible berth for ceremonial and visiting ships and vessels, as well as cruise ships, that preserves and promotes the maritime character of San Francisco's historic waterfront
- Integrate a ground transportation area that serves all cruise ship and passenger access and support needs off-street to avoid traffic impacts on The Embarcadero
- Develop an efficient facility that will lower the Port's operational and maintenance costs by the use of effective space planning and equipment to handle passenger circulation and provisioning, and will meet the evolved security and passenger handling demands of the cruise ship industry
- Maintain shoreside power in a new, modern cruise terminal facility to promote and expand access and use of San Francisco's electrical grid while ships are in port to avoid cruise ship diesel emissions
- Configure the cruise terminal in a way that will create opportunities for the Port to allow special event uses when the terminal is not occupied for cruise purposes to enable year-round, people-oriented uses at Pier 27, generate revenue to help finance public improvements, and create an inviting amenity that supports and activates use and enjoyment of the Northeast Wharf Plaza
- Develop the Northeast Wharf Plaza, a major public open space integrated with public access on Pier 27; create new views and access to San Francisco Bay; promote recreational enjoyment along San Francisco's public waterfront; and preserve open water areas for passive and active enjoyment of the Bay
- Develop a project that embodies the City's commitment to sustainability principles by following the guidelines from the U.S. Green Building Council to achieve a Leadership in Energy and Environmental Design (LEED) Silver or better rating
- Integrate the design and construction of the Cruise Terminal project with the proposed AC34 race facilities and operations

C. Environmental Review

Project Final EIR

Pursuant to and in accordance with the requirements of Section 21094 of the Public Resources Code and Section 15152 of the CEQA Guidelines, the San Francisco Planning Department prepared a Final EIR for 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Projects.

In accordance with Sections 15063 and 15082 of the CEQA Guidelines, the San Francisco Planning Department, as lead agency, published a Notice of Preparation ("NOP") on February 9, 2011, and conducted scoping meetings for the EIR on February 23 and 24, 2011. The NOP was circulated to local,

state, and federal agencies and to other interested parties on February 9, 2011, initiating a public comment period that extended through March 11, 2011.

As indicated in the NOP, the EIR addressed the full range of environmental impacts of the Project. The NOP included a preliminary list of the potential environmental impacts. The NOP provided a general description of the Project, locations, and objectives (see Appendix NOP-1 in Volume 4 of the Final EIR for a copy of the NOP).

Pursuant to CEQA Guidelines Section 15083, the San Francisco Planning Department held two public scoping meetings on February 23, 2011 at the Port of San Francisco office at Pier 1, and on February 24, 2011 at San Francisco City Hall, both located in San Francisco. The purpose of the meetings was to present the proposed Project to the public and receive public input regarding the scope of the EIR analysis. Attendees were provided an opportunity to voice comments or concerns regarding potential effects of the Project.

The public scoping process and the comments received in response to the NOP yielded oral and written comments. The comment letters, transcript of the scoping meeting, and reproductions of the comment cards are available for public review at the Environmental Planning Division of the San Francisco Planning Department, 1650 Mission Street, San Francisco, CA. The comments issued during the scoping meeting addressed concerns regarding land use, plans and policies, aesthetics, air quality, long term development, transportation, biological resources, cultural resources, hydrology and water quality, and cumulative impacts.

The San Francisco Planning Department then prepared the Draft EIR, which describes the Project and the environmental setting, identifies potential impacts, presents mitigation measures for impacts found to be significant or potentially significant, and evaluates Project alternatives. The Draft EIR analyzes the impacts associated with the Project, and identifies mitigation measures applicable to reduce impacts found to be significant or potentially significant. It also includes an analysis of two alternatives to the Project, including the No Project Alternative and a Renovated Pier 27 Shed Alternative. In assessing construction and operational impacts of the Project, the EIR also considers the combined effects of the Project with AC34, and the contribution of Project impacts to cumulative impacts associated with the Project in combination with other past, present, and future actions with potential for impacts on the same resources.

Each environmental issue presented in the Draft EIR is analyzed with respect to significance criteria that are based on the San Francisco Planning Department Environmental Planning Division ("EP") guidance regarding the environmental effects to be considered significant. EP guidance is, in turn, based on CEQA Guidelines Appendix G, with some modifications.

On July 11, 2011, the Draft EIR was circulated to local, state, and federal agencies and to interested organizations and individuals for review and comment during a 45-day public review period, which closed on August 25, 2011. A public hearing was held by the Planning Commission on the Draft EIR to accept written or oral comments on August 11, 2011. During the public review period, the San Francisco Planning Department received 235 written comments sent through the mail or email and 45 oral comments from speakers at the public hearings. A court reporter was present at the public hearing, transcribed the oral comments verbatim, and prepared a written transcript, which is provided in the Comments and Responses document, described below.

The Comments and Responses document was published on December 1, 2011, and it included copies of all of the comments received on the Draft EIR as well as responses to those comments. The Comments and Responses document provided additional, updated information, and clarification on issues raised by commenters. As stated above, the Final EIR includes updates and refinements the



Draft EIR project description, presented in Chapter 11, Cruise Terminal Project Variant. The Cruise Terminal Project Variant represents the Project now approved by the Port Commission. The refinements include revisions to the cruise ship provisioning area to create a public access area at the tip of Pier 27-29 that would remain open to the public during cruise ship calls, refinements to the Northeast Wharf Plaza design to remove ancillary commercial structures, add a restroom facility, and landscaping modifications to respond to historic preservation design performance criteria. In addition, new air quality mitigation measures that reduce but do not eliminate the extent of significant air quality impacts described in the Draft EIR will be implemented as part of the Project, including a new shoreside power facility at the Pier 70 drydock shipyard. The Pier 70 shoreside power installation will mitigate the emissions generated during the period when the Pier 27 shoreside power substation is out of commission.

The Planning Commission reviewed and considered the Final EIR, which includes the Draft EIR, the Comments and Responses document, and all of the supporting information. The Final EIR also analyzed the potential effects of the Project on achieving the Cruise Terminal project objectives specified in the Final EIR. In certifying the Final EIR, the Planning Commission determined that the Final EIR does not add significant new information to the Draft EIR that would require recirculation of the EIR under CEQA because the Final EIR contains no information revealing: (1) any new significant environmental impact that would result from the Project or from a new mitigation measure proposed to be implemented; (2) any substantial increase in the severity of a previously identified environmental impact; (3) any feasible project alternative or mitigation measure considerably different from others previously analyzed that would clearly lessen the environmental impacts of the Project, but that was rejected by the Project's proponents; or (4) that the Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. This Commission concurs with the determination of the Planning Commission. The Final EIR fully analyzed the Project proposed for approval by the Port Commission. No new impacts have been identified that have not been analyzed in the Final EIR.

D. Environmental Analysis of the Cruise Terminal Project Variant

As discussed, the Final EIR included a description and analysis of the Project, referred to in that document as the "Cruise Terminal Project Variant," in the Comments and Responses document, Chapter 11, including a detailed description of the Cruise Terminal Project Variant in Chapter 11.4 and analysis of impacts in Chapter 11.4.2. As stated above, the Cruise Terminal Project Variant is the Project approved by the Commission and may be referred to either as the "Project" or the "Cruise Terminal Project Variant" in these findings. The Comments and Responses document analysis concluded that the potential environmental effects of the Cruise Terminal Project Variant are similar to or less than the environmental effects of the Draft EIR Cruise Terminal project. The differences in the project elements and the impacts and mitigation measures between the Cruise Terminal Project Variant and the Draft EIR Cruise Terminal Project are described in Section I(A) above.

The updated and refined design and related elements included in the Project do not result in increased impacts as compared to the Draft EIR Cruise Terminal project. The Project would either result in the same or reduced impacts as compared to the Draft EIR Cruise Terminal project. The Comments and Responses document, Chapter 11, Section 11.4.2 Environmental Effects of the Cruise Terminal Project Variant, Table 11-6 Comparison of the Significant Environmental Impacts of the Draft EIR Cruise Terminal project and the Cruise Terminal Project Variant, provides a summary of how the impacts and mitigation measures of the Cruise Terminal Project Variant (i.e. the Project) compares to the Draft EIR

Cruise Terminal project. The Impacts associated with the Draft EIR Cruise Terminal project that would be reduced under the Project are:

- The Project would result in realignment of the cruise terminal access driveway 30 feet to the south consistent with Mitigation Measure M-TR-83 (Relocate Cruise Terminal Vehicular Access) in the Draft EIR. This relocation would provide additional distance for vehicles exiting the cruise terminal site to access the northbound left turn pocket at the approach to Chestnut and Sansome Streets without blocking the adjacent travel lanes.

In sum, the Project would have the same or reduced impacts as compared to the Draft EIR Cruise Terminal Project, and specifically would reduce impacts related to transportation and circulation, thus obviating the need to implement Mitigation Measure M-TR-83.

E. Approval Actions

San Francisco Planning Commission

- Certification of the Final EIR

San Francisco Port Commission

- Approval of the Cruise Terminal project; adoption of CEQA findings and a Mitigation Monitoring and Reporting Program for each project

United States Customs and Border Protection

- Approval of cruise terminal design as it applies to Customs and Border Protection facility guidelines

San Francisco Bay Conservation and Development Commission

- Approval of *San Francisco Bay Plan*, *San Francisco Waterfront Special Area Plan* amendments
- Approval of one or more Administrative and Major Permits for fill and uses in San Francisco Bay and the Bay shoreline

California State Lands Commission

- Consultation regarding use plan and Public Trust determination

California Regional Water Quality Control Board, San Francisco Bay Region

- Section 401 Water Quality Certification and any associated Waste Discharge Requirements; Construction General Permit coverage and Industrial Stormwater Permit Coverage, as applicable

Bay Area Air Quality Management District

- Authority to Construct and Permit to Operate applicable facilities

F. Content and Location of Record

The record upon which all findings and determinations related to the Project are based includes the following:

- The Draft EIR and all documents referenced in or relied upon by the EIR (The references in these findings to the EIR or Final EIR include both the Draft EIR and the Comments and Responses document.)
- All information (including written evidence and testimony) provided by City staff before the Planning Commission and the Port Commission relating to the EIR, the Project, and the alternatives set forth in the EIR.
- All information (including written evidence and testimony) presented to the Port Commission and the Planning Commission by the environmental consultant and sub-consultants who prepared the EIR or incorporated into reports presented to the Commissions.
- All information presented at any public hearing or workshop related to the Project and the EIR.
- The Mitigation Monitoring and Reporting Program.
- All other documents available to the Port Commission, the Planning Commission, and the Planning Department and the public, comprising the administrative record pursuant to Public Resources Code Section 21167.6(e).

The Port Commission has relied on all of the documents listed above in reaching its decision on the Project, even if not every document was formally presented to the Port Commission. A copy of all letters regarding the Draft EIR received during the public review period, the administrative record, and background documentation for the Final EIR are available at the San Francisco Planning Department, 1650 Mission Street, San Francisco. **Linda Avery** is the Custodian of Records for the Planning Department. Materials concerning approval of the Project and adoption of these findings are maintained at the Port of San Francisco, Pier 1, San Francisco, California 94111. The Custodian of Records for the Port is Amy Quesada. All files have been available to the Port Commission and the public for review in considering these findings and whether to approve the Project.

G. Findings About Significant Environmental Impacts and Mitigation Measures

The following Sections II, III and IV set forth the Commission's findings about the Final EIR's determinations regarding significant environmental impacts and the mitigation measures proposed to address them. These findings provide the written analysis and conclusions of the Commission regarding the environmental impacts of the Project and the mitigation measures included as part of the Final EIR and adopted by the Commission. To avoid duplication and redundancy, and because the Commission agrees with, and hereby adopts, the conclusions in the Final EIR, these findings will not repeat the analysis and conclusions in the Final EIR, but instead incorporate them by reference in these findings and rely upon them as substantial evidence supporting these findings.

In making these findings, the Commission has considered the opinions of City staff and experts, other agencies, and members of the public. The Commission finds that the determination of significance thresholds is a judgment decision within the discretion of the City and County of San Francisco; the significance thresholds used in the Final EIR are supported by substantial evidence in the record, including the expert opinion of the Final EIR preparers and City staff; and the significance thresholds used in the Final EIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project. Thus, although, as a legal matter, the Commission is not bound by the significance determinations in the Final EIR (see Public Resources Code, Section 21082.2(e)), the Commission finds them persuasive and hereby adopts them as its own.

These findings do not attempt to describe the full analysis of each environmental impact contained in the Final EIR. Instead, a full explanation of these environmental findings and conclusions can be found in the Final EIR, and these findings hereby incorporate by reference the discussion and analysis in the Final EIR supporting the determination regarding the Project impacts and mitigation measures designed to address those impacts. In making these findings, the Commission ratifies, adopts, and incorporates in these findings the determinations and conclusions of the Final EIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

As set forth below, the Commission adopts and incorporates all of the mitigation measures set forth in the Final EIR and the attached MMRP to substantially lessen or avoid the potentially significant and significant impacts of the Project. The Commission intends to adopt each of the mitigation measures proposed in the Final EIR for the Cruise Terminal Project Variant to reduce or eliminate significant impacts resulting from the Project, and, as such, does not adopt Mitigation Measure M-TR-83, which is not required for Project for the reasons set forth in Chapter 11 of the Final EIR. Accordingly, in the event a mitigation measure recommended in the Final EIR for the Cruise Terminal Project Variant has inadvertently been omitted in these findings or the MMRP, such mitigation measure is hereby adopted and incorporated in the findings below by reference. In addition, in the event the language describing a mitigation measure set forth in these findings or the MMRP fails to accurately reflect the mitigation measures in the Final EIR for the Cruise Terminal Project Variant due to a clerical error, the language of the policies and implementation measures as set forth in the Final EIR shall control. The impact numbers and mitigation measure numbers used in these findings reflect the information contained in the Final EIR.

In the Sections II, III and IV below, the same findings are made for a category of environmental impacts and mitigation measures. Rather than repeat the identical finding to address each and every significant effect and mitigation measure, the initial finding obviates the need for such repetition because in no instance is the Commission rejecting the conclusions of the Final EIR or the mitigation measures recommended in the Final EIR for the Project.

II. IMPACTS FOUND NOT TO BE SIGNIFICANT AND THUS DO NOT REQUIRE MITIGATION

Under CEQA, no mitigation measures are required for impacts that are less than significant (Public Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4 (a)(3), 15091). The Final EIR identified impact areas found not to be significant for the Cruise Terminal Project Variant as well as areas for which the Project had no impact. Based on the evidence in the whole record of this proceeding, the Port Commission finds that the implementation of the Cruise Terminal Project will result in less-than-significant impacts (or, where indicated, no impact) in the following areas and that these impact areas, therefore, do not require mitigation:

Project-Level Impacts

Land Use

- **Impact LU-4:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza at Piers 27–29 would not physically divide an established community.
- **Impact LU-5:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not conflict with any plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.
- **Impact LU-6:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not have a substantial adverse impact on the existing character of Piers 27–29.

Aesthetics

- **Impact AE-5:** Construction and operation of the Cruise Terminal and Northeast Wharf Plaza would not have a substantial adverse effect on a scenic vista
- **Impact AE-6:** Construction and operation of the Cruise Terminal and Northeast Wharf Plaza would not affect scenic resources (vistas, roadways, and designated scenic areas) or the visual character of the project sites and surroundings.
- **Impact AE-7:** Construction and operation of the Cruise Terminal and Northeast Wharf Plaza at Piers 27–29 would not substantially damage scenic resources or other features of the built environment that contribute to a scenic public setting.
- **Impact AE-8:** Construction and operation of the Cruise Terminal and Northeast Wharf Plaza at Piers 27–29 would not create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area.

Population and Housing

- **Impact PH-4:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not induce substantial population growth in the area, either directly (for example, by constructing new homes) or indirectly (for example, by establishing substantial new employment opportunities that attract employees to an area through extension of roads or other infrastructure).
- **Impact PH-5:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not displace existing housing units or create demand for additional housing.
- **Impact PH-6:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.

Cultural and Paleontological Resources

- **Impact CP-5:** Construction and operation of the proposed Pier 27 Cruise Ship Terminal would not result in a substantial adverse change in the significance of a historic resource.
- **Impact CP-7:** Proposed fill removal within Port properties associated with amendments to the BCDC Special Area Plan for the AC34 and Cruise Terminal projects would not cause a substantial adverse change in the significance of a historic resource.
- **Impact CP-9:** Construction and operation of the proposed Pier 27 Cruise Ship Terminal and Northeast Wharf Plaza would not directly or indirectly destroy a unique paleontological resource or site or unique geological feature.

Transportation and Circulation

- **Impact TR-81:** Implementation of the Cruise Terminal project would have a less than significant impacts at two study intersections that would operate at LOS F under Existing plus Cruise Terminal project conditions.
- **Impact TR-82:** Implementation of the Cruise Terminal project would have less than significant impacts at 20 study intersections that would operate at LOS D or better under Existing plus Cruise Terminal project conditions.
- **Impact TR-83:** Implementation of the Cruise Terminal project would not affect traffic operations on The Embarcadero.
- **Impact TR-84:** Implementation of the Cruise Terminal project would not cause a substantial increase in transit demand at the Muni Downtown and the Regional Transit Screenlines that could not be accommodated by adjacent transit service, or cause a substantial increase in transit delays or operating costs.
- **Impact TR-86:** Implementation of the Cruise Terminal would not create potentially hazardous conditions for bicyclists or otherwise substantially interfere with bicycle accessibility to the project site and adjoining areas.

- **Impact TR-87:** Implementation of the Cruise Terminal would not result in substantial overcrowding on public sidewalks, create hazardous conditions for pedestrians, or otherwise interfere with pedestrian accessibility to the project site or adjoining areas.
- **Impact TR-88:** Implementation of the Cruise Terminal project would not result in a loading demand during the peak hour of loading activities that could not be accommodated within the proposed loading supply, or within on-street loading zones.
- **Impact TR-89:** Implementation of the Cruise Terminal project would not result in a significant emergency vehicle access impact.
- **Impact TR-90:** Implementation of the Cruise Terminal project would not result in construction-related transportation impacts because of their temporary and limited duration.

Noise

- **Impact NO-5:** Construction of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not result in exposure of persons to or generation of noise levels in excess of standards established in the San Francisco General Plan or San Francisco Noise Ordinance.
- **Impact NO-6:** Operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not result in exposure of persons to or generation of noise levels in excess of standards established in the *San Francisco General Plan* or San Francisco Noise Ordinance.
- **Impact NO-7:** Construction of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.
- **Impact NO-8:** Operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.
- **Impact NO-9:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.
- **Impact NO-10:** Operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.

Air Quality

- **Impact AQ-9:** Construction of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not result in localized, construction dust-related air quality impacts.
- **Impact AQ-11:** Construction resulting from the amendments to the Bay Conservation and Development Commission (BCDC) Special Area Plan would not result in emission of criteria pollutants and precursors that would violate an air quality standard or contribute substantially to an existing or projected air quality violation.
- **Impact AQ-12:** Construction of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not expose sensitive receptors to substantial concentrations of toxic air contaminants or respirable particulate matter (PM_{2.5}).
- **Impact AQ-13:** Construction resulting from amendments to the Bay Conservation and Development Commission (BCDC) Special Area Plan (SAP) would not expose sensitive receptors to substantial concentrations of toxic air contaminants or respirable particulate matter (PM_{2.5}).
- **Impact AQ-14:** Operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not violate an air quality standard or contribute substantially to an existing or projected air quality violation.
- **Impact AQ-15:** Operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not expose sensitive receptors to substantial concentrations of toxic air contaminants or respirable particulate matter (PM_{2.5}).

- **Impact AQ-16:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not conflict with or obstruct implementation of applicable air quality plans.
- **Impact AQ-17:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not create objectionable odors affecting a substantial number of people
- **Impact AQ-18:** Operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not result in carbon monoxide concentrations in excess of state or federal standards.

Greenhouse Gas Emissions

- **Impact C-GG:** The proposed project would not generate greenhouse gas emissions at levels that would result in a significant impact on the environment or conflict with any policy, plan, or regulation adopted for the purpose of reducing greenhouse gas emissions.

Shadow

- **Impact SH-2:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not create new shadow in a manner that would substantially affect outdoor recreation facilities or other public areas.

Recreation

- **Impact RE-2:** The James R. Herman Cruise Terminal and Northeast Wharf Plaza at Piers 27-29 would not increase the use of parks and recreational facilities such that substantial physical deterioration of the facilities would occur and would not otherwise result in physical degradation of existing recreational resources.

Utilities and Service Systems

- **Impact UT-8:** Operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not exceed wastewater treatment requirements of the San Francisco Regional Water Quality Control Board.
- **Impact UT-9:** The James R. Herman Cruise Terminal and Northeast Wharf Plaza would not require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities.
- **Impact UT-10:** The James R. Herman Cruise Terminal and Northeast Wharf Plaza would require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which would not cause significant environmental effects.
- **Impact UT-11:** The City and County of San Francisco would have sufficient water supply available to serve the James R. Herman Cruise Terminal and Northeast Wharf Plaza from existing entitlements and resources, and would not require new or expanded water supply resources or entitlements.
- **Impact UT-12:** Operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not result in a determination by the wastewater treatment provider that would serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.
- **Impact UT-13:** The James R. Herman Cruise Terminal and Northeast Wharf Plaza would be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs.
- **Impact UT-14:** The James R. Herman Cruise Terminal and Northeast Wharf Plaza would comply with federal, state, and local statutes and regulations related to solid waste.

Public Services

- **Impact PS-4:** Construction and operation of James R. Herman Cruise Terminal and Northeast Wharf Plaza would not result in substantial adverse physical impacts associated with the

provision of or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection and emergency medical services.

- **Impact PS-5:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not result in substantial adverse physical impacts associated with the provision of or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for law enforcement services.

Biological Resources - Upland Biological Resources

- **Impact BI-7:** The James R. Herman Cruise Terminal and Northeast Wharf Plaza would not have a substantial adverse effect on any riparian habitat or other sensitive natural upland community identified in local or regional plans, policies, or regulations.'
- **Impact BI-8:** The James R. Herman Cruise Terminal and Northeast Wharf Plaza would not have a substantial adverse effect on federally protected wetlands.
- **Impact BI-10:** The James R. Herman Cruise Terminal and Northeast Wharf Plaza would not conflict with any applicable local policies or ordinances protecting upland biological resources.

Biological Resources - Marine Resources

- **Impact BI-17:** The James R. Herman Cruise Terminal and Northeast Wharf Plaza would not have a substantial adverse effect, either directly or through habitat modifications, on marine or estuarine species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations.

Geology and Soils

- **Impact GE-7:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not expose people or structures to substantial adverse effects related to fault rupture.
- **Impact GE-10:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not result in substantial slope instability or expose people or structures to substantial adverse effects related to earthquake-induced landslides.
- **Impact GE-11:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not result in substantial erosion or loss of topsoil.

Hydrology and Water Quality

- **Impact HY-6:** Operation of the Cruise Terminal and Northeast Wharf Plaza would not exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.
- **Impact HY-7:** The Cruise Terminal and Northeast Wharf Plaza would not expose people or structures to a significant risk of loss, injury, or death involving inundation by seiche or tsunami.
- **Impact HY-8:** The Cruise Terminal and Northeast Wharf Plaza would not expose people or structures to a significant risk of loss, injury, or death involving inundation from flooding as a result of climate change-induced sea level rise.
- **Impact HY-9:** Proposed fill removal within Port properties associated with amendments to the BCDC Special Area Plan for the cruise terminal and Northeast Wharf Plaza would not violate water quality standards or waste discharge requirements or otherwise substantially degrade water quality.



Hazards and Hazardous Materials

- **Impact HZ-5:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not have a substantial adverse effect related to the routine transport, use, or disposal of hazardous materials.
- **Impact HZ-6:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not create a significant hazard to the public or the environment as a result of a release of hazardous materials in soil or sediment or location of project activities on a government list of hazardous materials sites.
- **Impact HZ-8:** The Cruise Terminal and Northeast Wharf Plaza would not expose people or structures to a significant risk of loss, injury, or death involving fires nor would it impair implementation of or physically interfere with and adopted emergency response plan or emergency evacuation plan.

Minerals and Energy Resources

- **Impact ME-2:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not encourage activities that would result in the use of large amounts of fuel, water, or energy, or use these in a wasteful manner.

Agriculture and Forest Resources

- **Impact AG-2:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not (a) convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance; (b) conflict with existing zoning for agricultural use, or a Williamson Act contract; (c) conflict with existing zoning for or cause rezoning of forest land or timberland; (d) result in the loss of forest land or conversion of forest land to non-forest use; or (e) involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use or forest land to non-forest use.

Cumulative Impacts

The Project would result in a less than considerable contribution to cumulative impacts for the following impacts:

Land Use

- **Impact C-LU:** The project, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative land use impacts.

Aesthetics

- **Impact C-AE:** There would be no cumulative impacts on visual quality.

Population and Housing

- **Impact C-PH:** The project, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative impacts on population and housing.

Transportation and Circulation

- **Impact C-TR-6:** Implementation of the Cruise Terminal project would have less than significant impacts at six study intersections that would operate at LOS E or LOS F under 2035 cumulative conditions.
- **Impact C-TR-7:** Implementation of the Cruise Terminal project would have less than significant impacts at 11 study intersections that would operate at LOS D or better under 2035 cumulative conditions.

- **Impact C-TR-8:** The proposed project's contribution to cumulative transit trips would not contribute considerably to exceeding Muni's capacity utilization standard at the Downtown screenlines during the weekday a.m. and p.m. peak hours.
- **Impact C-TR-10:** The proposed project's contribution to cumulative transit trips on AC Transit, BART, Caltrain, Golden Gate Transit, SamTrans, and other ferry lines would not contribute considerably to the capacity utilization at the regional screenlines during the weekday a.m. and p.m. peak hours.

Wind

- **Impact C-WI:** The projects, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative wind impacts.

Shadow

- **Impact C-SH:** The project, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative shadow impacts.

Recreation

- **Impact C-RE:** The project, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative recreation impacts.

Utilities and Service Systems

- **Impact C-UT:** The proposed project, combined with past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative impacts on utilities or service systems.

Public Services

- **Impact C-PS:** The project, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative impacts on public services.

Biological Resources - Upland Biological Resources

- **Impact C-Bla:** The project, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative impacts on upland biological resources.

Biological Resources - Marine Resources

- **Impact C-Blb:** The project, in combination with other past, present, and reasonably foreseeable future projects, could result in significant adverse cumulative impacts on marine and estuarine biological resources.

Geology and Soils

- **Impact C-GE:** The project, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative impacts related to geology and soils.

Minerals and Energy Resources

- **Impact C-ME:** The project, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative impacts on mineral or energy resources.

Agriculture and Forest Resources

- **Impact C-AG:** The project, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative impacts on agricultural or forest resources.

III. FINDINGS OF POTENTIALLY SIGNIFICANT IMPACTS THAT CAN BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL THROUGH MITIGATION AND THE DISPOSITION OF THE MITIGATION MEASURES

CEQA requires agencies to adopt mitigation measures that would avoid or substantially lessen a project's identified significant impacts or potential significant impacts if such measures are feasible (unless mitigation to such levels is achieved through adoption of a project alternative). The findings in this Section III and in Section IV concern mitigation measures set forth in the EIR. These findings discuss mitigation measures as proposed in the Final EIR and recommended for adoption by the Commission, which can be implemented by the Project Sponsors. The mitigation measures proposed for adoption in this section are the same as the mitigation measures identified in the Final EIR for the Cruise Terminal Project Variant. The full explanation of the potentially significant environmental impacts is contained in Chapters 5 and 6 of the Final EIR, (and in text changes to Chapter 5 found in Chapter 13 of the Final EIR). The full text of the mitigation measures is contained in the Final EIR in Chapter 13 and in **Attachment B, the Mitigation Monitoring and Reporting Program**. **Attachment B** also specifies the agency responsible for implementation of each measure, establishes monitoring actions and a monitoring schedule.

This Commission recognizes that some of the mitigation measures as explained below are partially within the jurisdiction of other agencies, including the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, California Department of Fish and Game, San Francisco Bay Regional Water Quality Control Board, Bay Area Air Quality Management District, Marin County, and San Francisco Planning Department. The Commission urges these agencies to assist in implementing these mitigation measures, and finds that these agencies can and should participate in implementing these mitigation measures.

For purposes of these findings, significant project impacts have been organized into two categories: project impacts and cumulative impacts. The Commission adopts all of the mitigation measures proposed for the Cruise Terminal Project Variant as identified in the Final EIR. The Commission finds that all of the mitigation measures are appropriate and feasible and that changes or alterations will be required in, or incorporated into, the Cruise Terminal Project Variant that mitigate or avoid the significant environmental effects as identified in the Final EIR. Based on the analysis contained in the Final EIR, other considerations in the record, and the standards of significance, the Commission finds that implementation of all of the proposed mitigation measures will reduce the potentially significant impacts discussed in this Section III to a ***less-than-significant*** level.

Project-Level Impacts

Cultural and Paleontological Resources

- **Impact CP-6:** Construction of the proposed Northeast Wharf Plaza could cause a substantial adverse change in the significance of a historic resource.
 - *Mitigation Measure M-CP-6: Northeast Wharf Plaza Performance Criteria*
- **Impact CP-8:** Construction and operation of the proposed Pier 27 Cruise Ship Terminal and Northeast Wharf Plaza could cause a substantial adverse change in the significance of an archeological resource, including shipwrecks.
 - *Mitigation Measure M-CP-2: Inadvertent Discovery of Archeological Resources or Shipwrecks*



- **Impact CP-10:** Construction and operation of the proposed Pier 27 Cruise Ship Terminal and Northeast Wharf Plaza could disturb any human remains, including those interred outside of formal cemeteries.
 - *Mitigation Measure M-CP-4: Inadvertent Discovery of Human Remains*

Wind

- **Impact WI-2:** Construction and operation of the Cruise Terminal and Northeast Wharf Plaza could alter wind in a manner that substantially affects public areas.
 - *Mitigation Measure M-WI-2: Warning Signs, Limiting Access and/or Design Features on the Eastern Aprons of Piers 27-29 During Hazardous Wind Events.*

Biological Resources – Upland Biological Resources

- **Impact BI-6:** The construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza could have a substantial adverse effect, either directly or through habitat modifications, on upland species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations.
 - *Mitigation Measure M-BI-6a: Bird-Sensitive Night Lighting at the Cruise Terminal*
 - *Mitigation Measure M-BI-6b: Bird-Building Collision Avoidance*
 - *Mitigation Measure M-BI-4c: Protection for Breeding Birds on Piers and Associated Structures*
- **Impact BI-9:** The James R. Cruise Terminal and Northeast Wharf Plaza could interfere with the movement of any native upland wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites.
 - *Mitigation Measure M-BI-4c: Protection for Breeding Birds on Piers and Associated Structures*
 - *Mitigation Measure M-BI-4d: Protection for Bat Roosts on Piers and Associated Structures*

Geology and Soils

- **Impact GE-8:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza could expose people or structures to substantial adverse effects related to groundshaking.
 - *Mitigation Measure M-GE-2: Site-Specific Geotechnical Investigation*
- **Impact GE-9:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza could expose people or structures to substantial adverse effects related to liquefaction, lateral displacement, or earthquake-induced settlement.
 - *Mitigation Measure M-GE-2: Site-Specific Geotechnical Investigation*
- **Impact GE-12:** The James R. Herman Cruise Terminal and Northeast Wharf Plaza could be located on a geologic unit or soil that is unstable, or that could become unstable as a result of the project.
 - *Mitigation Measure M-GE-2: Site-Specific Geotechnical Investigation*

Hydrology and Water Quality

- **Impact HY-5:** Construction and operation of the Cruise Terminal and Northeast Wharf Plaza could violate water quality or waste discharge requirements or otherwise substantially degrade water quality.
 - *Mitigation Measure M-HY-1: Water Quality Best Management Practices*

Hazards and Hazardous Materials

- **Impact HZ-7:** Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza could create a significant hazard to the public or the environment as a

result of a release of hazardous building materials in structures that would be demolished and creosote-treated pilings and structures that would be removed.

- *Mitigation Measure M-HZ-3: Removal of Hazardous Building Materials*

Cumulative Impacts

The Project would make a considerable contribution to cumulative impacts, which could be reduced to a ***less-than-significant*** level with the implementation of Project mitigation measures for the following impacts.

Cultural and Paleontological Resources

- **Impact C-CP:** The combination of AC34 and Cruise Terminal projects, in combination with other past, present and foreseeable future projects, could have a cumulatively considerable effect on cultural resources.
 - *Mitigation Measure M-CP-2: Inadvertent Discovery of Archeological Resources or Shipwrecks*
 - *Mitigation Measure M-CP-4: Inadvertent Discovery of Human Remains*
 - *Mitigation Measure M-CP-6: Northeast Wharf Plaza Performance Criteria*

Hydrology and Water Quality

- **Impact C-HY:** The project, in combination with other past, present, and reasonably foreseeable future projects, could result in significant adverse cumulative hydrology or water quality impacts.
 - *Mitigation Measure M-HY-1: Water Quality Best Management Practices*

Hazards and Hazardous Materials

- **Impact C-HZ:** The project, in combination with other past, present, and reasonably foreseeable future projects, could result in significant adverse cumulative hazards and hazardous materials impacts.
 - *Mitigation Measure M-HZ-3: Removal of Hazardous Building Materials*

IV. SIGNIFICANT IMPACTS THAT CANNOT BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT

A. Project Impacts

Based on substantial evidence in the whole record of these proceedings, the Commission finds that, where feasible, changes or alterations have been required, or incorporated into, the Project to reduce the significant environmental impacts as identified in the Final EIR. The Commission finds that the mitigation measures in the Final EIR and described below are appropriate, and that changes have been required in, or incorporated into, the Project that, pursuant to Public Resources Code Section 21002 and CEQA Guidelines Section 15091, may substantially lessen, but do not avoid (i.e., reduce to less than significant levels), the potentially significant environmental effect associated with implementation of the Cruise Terminal Project. The Commission adopts all of the mitigation measures proposed in the Final EIR that are relevant to the Project (described as the "Cruise Terminal Project Variant" in the Final EIR) and set forth in the **MMRP**, attached hereto as **Attachment B**. The Commission further finds, however, for the impacts listed below, despite the implementation of any identified feasible mitigation measures, the effects remain significant and unavoidable. Based on the analysis contained within the Final EIR, other considerations in the record, and the standards of significance, the Port Commission finds that because some aspects of the Project could cause potentially significant impacts for which feasible mitigation measures are not available to reduce the impact to a less-than-significant level, the impacts are **significant and unavoidable**. For a detailed explanation of the lack of feasible mitigation measures for the following impacts, please see the relevant discussion within the Final EIR.

The Commission determines that the following significant impacts on the environment, as reflected in the Final EIR, are unavoidable, but under Public Resources Code Section 21081(a)(3) and (b), and CEQA Guidelines 15091(a)(3), 15092(b)(2)(B), and 15093, the Port Commission determines that the impacts are acceptable due to the overriding considerations described in Section VII below. This finding is supported by substantial evidence in the record of this proceeding.

Project-Level Impacts

Transportation and Circulation

- **Impact TR-85:** Implementation of the Cruise Terminal project would contribute to existing exceedance of capacity utilization standard on the F-Market & Wharves historic streetcar line.
 - *Mitigation Measure M-TR-85: Additional F-Market & Wharves or E-Embarcadero Service*

Air Quality

- **Impact AQ-10:** Construction of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would result in emission of criteria pollutants and precursors that would violate an air quality standard or contribute substantially to an existing or projected air quality violation.
 - *Mitigation Measure M-AQ-2a: Construction Vehicle Emissions Minimization*
 - *Mitigation Measure M-AQ-2b: Off-Road Construction Equipment*
 - *Mitigation Measure M-AQ-2c: Off-Road Construction Equipment - Electricity Use*
 - *Mitigation Measure M-AQ-2d: Off-Road Construction Equipment - Best Management Practices (BMPs)*
 - *Mitigation Measure M-AQ-2f: Fuels for Off-Road Construction Equipment*
 - *Mitigation Measure M-AQ-4d: Return Pier 27 to the Port Within One Month after Completion of the Match for Reconnection of Shoreside Power*
 - *Mitigation Measure 4e: Long-term Shoreside Power at Pier 70*

Cumulative Impacts

Transportation and Circulation

- **Impact C-TR-1:** Implementation of the Cruise Terminal project would result in significant project and cumulative impacts at the intersection of The Embarcadero/ Broadway.
 - *No feasible mitigation available.*
- **Impact C-TR-2:** Implementation of the Cruise Terminal project would result in a significant project and cumulative impacts at the intersection of The Embarcadero/ Washington.
 - *No feasible mitigation available.*
- **Impact C-TR-3:** Implementation of the Cruise Terminal project would result in a significant project and cumulative impacts at the intersection of The Embarcadero/ Mission.
 - *No feasible mitigation available.*
- **Impact C-TR-4:** Implementation of the Cruise Terminal project would result in a significant project and cumulative impacts at the intersection of The Embarcadero/ Howard.
 - *No feasible mitigation available.*
- **Impact C-TR-5:** Implementation of the Cruise Terminal project would result in a significant project and cumulative impacts at the intersection of The Embarcadero/Folsom.
 - *No feasible mitigation available.*

- **Impact C-TR-9:** The proposed project's contribution to cumulative transit conditions on the F-Market & Wharves historic streetcar line would be considerable, and would result in significant project and cumulative impacts on the F-Market & Wharves historic streetcar.
 - *Mitigation Measure M-TR-85: Additional F-Market & Wharves or E-Embarcadero Service*

Noise

- **Impact C-NO:** Cruise terminal project-related traffic, in combination with other past, present, and reasonably foreseeable future projects, would result in significant and unavoidable adverse cumulative noise impacts.
 - *No feasible mitigation available.*

Air Quality

- **Impact C-AQ-2:** The proposed Cruise Terminal project, in combination with other past, present, and reasonably foreseeable future projects, would result in significant adverse cumulative impacts on air quality.
 - *Mitigation Measure M-AQ-2a: Construction Vehicle Emissions Minimization*
 - *Mitigation Measure M-AQ-2b: Off-Road Construction Equipment*
 - *Mitigation Measure M-AQ-2c: Off-Road Construction Equipment - Electricity Use*
 - *Mitigation Measure M-AQ-2d: Off-Road Construction Equipment - Best Management Practices*
 - *Mitigation Measure M-AQ-2f: Fuels for Off-Road Construction Equipment*
 - *Mitigation Measure M-AQ-4d: Return Pier 27 to the Port Within One Month after Completion of the Match for Reconnection of Shoreside Power*
 - *Mitigation Measure M-AQ-4e: Long-term Shoreside Power at Pier 70*

V. EVALUATION OF PROJECT ALTERNATIVES

This section alternatives to the Project and the reasons for approving the Project and for rejecting the alternatives. This section also outlines the Project's purposes and provides a context for understanding the reasons for selecting or rejecting alternatives. CEQA mandates that an EIR evaluate a reasonable range of alternatives to the Project or the Project location that generally reduce or avoid potentially significant impacts of the Project. CEQA requires that every EIR also evaluate a "No Project" alternative. Alternatives provide a basis of comparison to the Draft EIR project in terms of their significant impacts and their ability to meet project objectives. This comparative analysis is used to consider reasonable, potentially feasible options for minimizing environmental consequences of the Project.

The Final EIR analyzes two alternatives, discussed below, and the reasons for rejecting them in favor of approving the Project. In addition to these alternatives, the Final EIR includes a separate discussion of other Cruise Terminal site alternatives that were considered but rejected from further consideration and the reasons why, including Pier 30-32, Pier 50, Pier 70, Pier 80, Pier 94-96.

A. Reasons for Selection of the Project

The Project, as analyzed in the Final EIR, directly contributes to achievement of the objectives of the Project Sponsors, including the City and the Port of San Francisco, and will provide the following benefits:

- A new, modern cruise terminal that optimizes current and future operational needs and retains an important historic maritime use along San Francisco's northeastern waterfront that is compatible with and respects the physical form and characteristics defining the Embarcadero Historic District, which is listed on the National Register of Historic Places

- A highly visible berth for ceremonial and visiting ships and vessels, as well as cruise ships, that preserves and promotes the maritime character of San Francisco's historic waterfront
- Integration of a ground transportation area that serves all cruise ship and passenger access and support needs off-street to avoid traffic impacts on The Embarcadero
- An efficient facility that will lower the Port's operational and maintenance costs by the use of effective space planning and equipment to handle passenger circulation and provisioning, and will meet the evolved security and passenger handling demands of the cruise ship industry
- Maintenance of shoreside power in a new, modern cruise terminal facility to promote and expand access and use of San Francisco's electrical grid while ships are in port to avoid cruise ship diesel emissions
- Configuration of the cruise terminal in a way that will create opportunities for the Port to allow special event uses when the terminal is not occupied for cruise purposes to enable year-round, people-oriented uses at Pier 27, generate revenue to help finance public improvements, and create an inviting amenity that supports and activates use and enjoyment of the Northeast Wharf Plaza
- The Northeast Wharf Plaza, a major public open space integrated with public access on Pier 27; create new views and access to San Francisco Bay; promote recreational enjoyment along San Francisco's public waterfront; and preserve open water areas for passive and active enjoyment of the Bay
- A project that embodies the City's commitment to sustainability principles by following the guidelines from the U.S. Green Building Council to achieve a Leadership in Energy and Environmental Design (LEED®) Silver or better rating
- Integration of the design and construction of the Cruise Terminal project with the proposed AC34 race facilities and operations

The development of a spacious, modern cruise terminal is a long-sought objective of the Port of San Francisco, and the City. The Project will provide a new welcoming gateway, designed in a manner that respects San Francisco's historic waterfront setting. The large size of the Project site also supports a ground transportation area that enables all passenger and ship access, loading and staging to occur off-street. The Project incorporates refinements that shift the driveway entry approximately 30 feet to the south, to enable exiting traffic from Pier 27 to more readily access the left turn lane at The Embarcadero and Bay Street, to avoid contributing to traffic further north on The Embarcadero. The terminal design integrates energy and sustainability systems and features for which the Port hopes to achieve LEED Gold certification. During non-cruise days, the Project will accommodate weddings, conferences and events and gatherings, activities that are attracted to human-scaled and inviting facilities, especially in a waterfront setting that incorporates the kind of major public open space that will be provided by the Northeast Wharf Plaza.

B. Alternatives Rejected and Reasons for Rejection

The Commission rejects the Alternatives set forth in the Final EIR and listed below because the Commission finds that there is substantial evidence, including evidence of economic, legal, social, technological, and other considerations described in this Section in addition to those described in Section VII below under CEQA Guidelines 15091(a)(3), that make infeasible such Alternatives. In making these determinations, the Commission is aware that CEQA defines "feasibility" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors." The Commission is also aware that under CEQA case law the concept of "feasibility" encompasses (i) the question of whether a particular alternative

promotes the underlying goals and objectives of a project and (ii) the question of whether an alternative is "desirable" from a policy standpoint to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.

Two alternatives are analyzed in the Final EIR: 1) No Project Alternative, 2) Renovation of Pier 27 Shed Alternative. They are summarized below, along with the discussion of the reasons they are rejected.

Alternative 1: No Project Alternative

Under the No Project Alternative, the James R. Herman Cruise Terminal and Northeast Wharf would not be constructed. The existing Pier 35 facilities would continue to serve as the primary cruise ship terminal, and the existing Pier 27 facilities would continue to serve as the backup cruise terminal, as currently occurs. Under a scenario where the AC34 project would be implemented, it is assumed that Piers 27-29 would still serve as the America's Cup Village in 2013, and the AC34 project sponsors would be responsible for partial to full demolition of the Pier 27 shed and partial demolition of the Pier 29 shed.

The Cruise Terminal No Project Alternative would meet only one of the Cruise Terminal project objectives—pursuant to applicable regulations, shoreside power would be implemented. It would not, however, result in a new and modern cruise terminal with associated amenities. The Cruise Terminal No Project Alternative would avoid all construction- and operation-related impacts that would occur under the proposed project. However, existing operational inefficiencies at Pier 35 would continue, including existing transportation and circulation issues in the surrounding area when cruise ships are in port. Under the No Project Alternative, the Port would have limited abilities to accommodate future demands in the cruise ship industry given the current trends in larger cruise ships and demands for more efficient operations. There would be no opportunities for year-round shared uses on an expansive waterfront parcel, and creation of a Northeast Wharf Plaza, as delineated in the BCDC Special Area Plan, would not occur. This alternative would not address the Port's cruise industry market and facilities needs in the future. Moreover, keeping primary terminal operations at Pier 35 would not enable maximum use and air quality benefits of the cruise ship shoreside power facility at Pier 27. There would be no public amenities like Northeast Wharf added to the waterfront. In light of these considerations, this alternative is rejected.

Alternative 2: Renovation of Pier 27 Shed Alternative

The Renovation of Pier 27 Shed Alternative would consist of renovating the existing facilities at Pier 27 with sufficient improvements to allow them to serve as the City's primary cruise terminal, allow development of the proposed Northeast Wharf Plaza, and accommodate the proposed America's Cup Village at Piers 27-29 in 2013. This alternative was selected for analysis because it would reduce environmental impacts associated with demolition and with bird strikes.

This alternative would meet, or partially meet, all of the project objectives. The facility would not be completely new and modern, which would result in some operational inefficiencies and limited shared uses, as compared to the proposed project. This alternative would have a shorter construction period than the proposed project, which would reduce construction-related transportation, air quality, noise, and hazardous materials impacts as compared to impacts under the Project. During project operations, bird strike impacts would be less than those under the Project. However, most of the same mitigation measures would still be required. The Renovation of Pier 27 Shed was identified as the environmentally superior alternative.

Prior to defining the Project analyzed in the Final EIR, the Port investigated the renovation of the existing Pier 27 Shed as an option to convert the cargo warehouse to a cruise terminal. The reduced construction requirements and, thus, reduced impacts of this approach, as acknowledged in the Final EIR, was a key consideration in favor of this option. But, there were several operational, financial and functional limitations that ultimately led the Port Commission to express its preference for construction of a new cruise terminal.

Specifically, conversion of the existing shed under this alternative would result in inefficiencies due to the differences between the space requirements and arrangements of cargo shipping and cruise operations. For example, the existing trusses within the shed limit the ability to develop a two story terminal building, which is optimal for passenger terminal operations, makes efficient use of building space and conserves energy resources. Thus, while the cost of initial capital improvements is somewhat lower than new construction, that savings would be offset by higher maintenance repair and operational costs over the lifetime of the facility. This alternative would have a larger building footprint than the Project, which would result in a smaller ground transportation area and less back-up staging area off The Embarcadero. This alternative would limit the viability of shared use of the terminal for conferences, events and gatherings on non-cruise days, compared to the Project. The existing shed is massive, with few windows or glazed openings to take advantage of waterfront views, compared to the amenities that are included in the Project design. Mitigation measures requiring the use of fritted glass will be implemented as part of the Project to reduce significant effects of bird strikes and still provide an aesthetically attractive facility for shared use. In light of these considerations, the Port Commission rejects this alternative.

VI. STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to CEQA section 21081 and CEQA Guideline Section 15093, the Commission hereby finds, after consideration of the Final EIR and the evidence in the record, that each of the specific overriding economic, legal, social, technological and other benefits of the Project, as set forth, below independently and collectively outweighs these significant and unavoidable impacts and is an overriding consideration warranting approval of the Project. Any one of the reasons for approval cited below is sufficient to justify approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the Commission will stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this Section, and in the documents found in the Record of Proceedings, as defined in Section I.

On the basis of the above findings and the substantial evidence in the whole record of this proceeding, the Commission specifically finds that there are significant benefits of the Project to support approval of the Project in spite of the unavoidable significant impacts, and therefore makes this Statement of Overriding Considerations. The Commission further finds that, as part of the process of obtaining Project approval, all significant effects on the environment from implementation of the Project have been eliminated or substantially lessened where feasible. All mitigation measures proposed in the Final EIR for the Project (described therein as the "Cruise Terminal Project Variant") are adopted as part of this approval action. Approval of the Project does not result in any new or more severe impacts than those that would result from adoption of the Draft EIR Cruise Terminal Project. Furthermore, the Port Commission has determined that any remaining significant effects on the environment found to be unavoidable are acceptable due to the following specific overriding economic, technical, legal, social and other considerations.

For the past 20 years, the Port Commission has pursued the development of a modern new cruise terminal to address the needs of a vital maritime industry that would also complement the urban mix of activities along The Embarcadero waterfront. After two unsuccessful attempts to develop a new cruise terminal through public-private development projects, the Port has worked hard to manage its finances and resources to develop the Project on its own. Doing so will achieve multiple benefits for the Port waterfront:

- The Project's location at Pier 27 is in proximity to numerous, desirable visitor destinations, and plays an important role in supporting San Francisco's visitor and tourism industry, which is a major economic engine for the City and State.
- The Project supports current and future needs of the cruise industry. The trend toward larger cruise ships carrying greater passenger loads requires facilities that can support safe operations and provide a positive visitor experience.
- The Cruise Terminal portion of the Project serves a core maritime purpose for the Port, and the inclusion of the Northeast Wharf Plaza as an integrated feature at Pier 27 also addresses important public trust objectives for recreation , open space, and physical and visual access to the waterfront.
- Improving Pier 27 for optimal use and operation as a Cruise Terminal will maximize the use and environmental benefits of the Pier 27 cruise ship shoreside power facility.
- The Northeast Wharf Plaza provides a major new public open space that fills a gap in the Port's planned system of waterfront parks, providing an important resource in an area that has a deficit of open space.
- The Project also includes provisions for shared use of the Cruise Terminal for conferences, gatherings and events when not in use for cruise ship calls. This complementary mix of uses helps to keep the area vital and active, which also will support the successful use and enjoyment of the Northeast Wharf Plaza.
- The Project has been sensitively designed to meet *Secretary of Interior Standards for Historic Preservation* and to recognize its place within the Embarcadero Historic District, yet add a distinctive addition that enhances San Francisco's urban waterfront.

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Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
CULTURAL RESOURCES MITIGATION MEASURES				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza</i>				
<p>Mitigation Measure M-CP-2: Inadvertent Discovery of Archeological Resources or Shipwrecks</p> <p>The following measures shall be implemented should construction activities result in the inadvertent discovery of a cultural resource:</p> <p>To avoid any potential adverse effect from the proposed project on inadvertently discovered buried or submerged historic resources, as defined in CEQA Guidelines Section 15064.5 (a)(c), the project sponsor will distribute the Planning Department's archeological resource "ALERT" sheet to the project prime contractor; to any project subcontractor firms (including demolition, excavation, grading, foundation, pile driving, etc.); and/or to utilities firms involved in soil- or Bay bottom-disturbing activities within the project site. Prior to any soil- or Bay bottom-disturbing activity being undertaken, each contractor is responsible for ensuring that the ALERT sheet is circulated to all field personnel, including machine operators, field crew, pile drivers, supervisory personnel, etc. the project sponsor will provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) confirming that all field personnel have received copies of the ALERT sheet.</p> <p>In the event that any indication of a potential cultural resource is encountered during soil- or Bay bottom-disturbing activities (such as in-water pile driving for temporary berths and seismic improvements to Piers 30-32), the head foreman and/or project sponsor shall immediately notify the ERO and shall suspend soil- or Bay bottom-disturbing activities within 50 feet of the find until the ERO has determined what additional measures should be undertaken. Abandoned shipwrecks, archeological sites and historic resources in submerged lands of California are under the jurisdiction of the California State Lands Commission (CSLC). In the case of an inadvertent discovery of a submerged archeological site, shipwreck or related artifacts, the ERO shall contact and initiate consultation with the CSLC staff within 2 business days of such discovery.</p>	Port of San Francisco	During any soils-disturbing activity	Notification of ERO if any archeological resources encountered	During any soils-disturbing activity. Considered complete upon notification of ERO

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CULTURAL RESOURCES MITIGATION MEASURES (cont.)				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza (cont.)</i>				
<p>Mitigation Measure M-CP-2: Inadvertent Discovery of Archeological Resources or Shipwrecks (cont.)</p> <p>If the ERO (in consultation with the CSLC staff, if applicable) determines that an archeological resource may be present within the project site, the project sponsor shall retain the services of an archeological consultant from the pool of qualified archeological consultants maintained by the Planning Department archaeologist. In the event of a shipwreck a qualified maritime archeological consultant shall be retained. The archeological consultant will advise the ERO as to whether the discovery is an archeological resource that retains sufficient integrity and is of potential scientific/historical/cultural significance. If an archeological resource is present, the archeological consultant will identify and evaluate the archeological resource. The archeological consultant will make a recommendation as to what action, if any, is warranted. Based on this information, the ERO (in consultation with the CSLC, if applicable) may require, if warranted, specific additional measures to be implemented by the project sponsor no more than forty eight (48) hours from receipt of such recommendation.</p> <p>Measures might include: preservation in situ of the archeological resource; an archeological monitoring program; or an archeological evaluation program. If an archeological monitoring or evaluation program is required, it shall be consistent with the Environmental Planning (EP) division of the Planning Department guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.</p> <p>The project archeological consultant shall submit a Final Archeological Resources Report (FARR) to the ERO (and the CSLC staff, if applicable). This report shall include an evaluation of the historical significance of any discovered archeological resource, as well as a description of the archeological and historical research methods employed in any archeological monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.</p>	Port of San Francisco and archaeological consultant	Before resumption of any soils-disturbing activity (if suspended)	Archeological consultant shall advise the ERO and ERO may require additional measures	Prior to resumption of soils-disturbing activity. Considered complete upon ERO approval of archeological consultant's recommendations
	Port of San Francisco and archaeological consultant	Following completion of any required archaeological field program	Archeological consultant submits draft FARR to ERO for approval	Prior to issuance of final certificate of occupancy. Considered complete upon ERO approval of draft FARR

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CULTURAL RESOURCES MITIGATION MEASURES (cont.)				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza (cont.)</i>				
<p>Mitigation Measure M-CP-2: Inadvertent Discovery of Archeological Resources or Shipwrecks (cont.)</p> <p>Once approved by the ERO, copies of the FARR shall be distributed as follows: the relevant California Historical Resources Information System Information Center shall receive one (1) copy and the ERO shall receive a copy of the transmittal letter of the FARR to the Information Center. The EP and the CSLC staff (if applicable) shall receive one bound, one unbound, and one unlocked, searchable PDF copy on CD of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. The project sponsor shall receive copies of the FARR in the number requested. In instances of high public interest in or the high interpretive value of the resource, the ERO or the CSLC staff may require a different final report content, format, and distribution than that presented above.</p>	Port of San Francisco and archaeological consultant	Following completion of FARR	Distribute FARR. Submittal to ERO of affidavit of FARR distribution	Prior to resumption of soils-disturbing activities. Considered complete upon Planning Department receipt of report
<p>Mitigation Measure M-CP-4: Inadvertent Discovery of Human Remains</p> <p>The following measures shall be implemented should construction activities result in the inadvertent discovery of human remains:</p> <p>The treatment of any human remains and associated or unassociated funerary objects discovered during soil-disturbing activities shall comply with applicable state laws. Such treatment would include immediate notification of the City and County of San Francisco Coroner. In the event of the coroner's determination that the human remains are Native American, the coroner shall notify of the Native American Heritage Commission, which would appoint a Most Likely Descendant (MLD) (PRC Section 5097.98). The archeological consultant, the project sponsor, and MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of any human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5[d]). The agreement would take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. The PRC allows 48 hours to reach agreement on these matters. If the MLD and the other parties could not agree on the reburial method, the project sponsor shall follow Section 5097.98(b) of the PRC, which states that "the</p>	Port of San Francisco and archaeological consultant	During any soils-disturbing activity	Archeological consultant shall advise the County Coroner, MLD	Considered complete upon completion of soils-disturbing activities

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CULTURAL RESOURCES MITIGATION MEASURES (cont.)				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza (cont.)</i>				
<p>Mitigation Measure M-CP-4: Inadvertent Discovery of Human Remains (cont.)</p> <p>landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance."</p>				
<p>Mitigation Measure M-CP-6: Northeast Wharf Plaza Performance Criteria</p> <p>To mitigate the project's potential impacts of the Northeast Wharf Plaza on Pier 29, Belt Railroad Office Building, Pier 23 Restaurant, and the Embarcadero Historic District, the following design criteria have been defined to produce a plaza design that maintains the character and integrity of the District and to achieve consistency with the Secretary's Standards, and the Port shall comply with these criteria:</p> <p>a) <i>Plaza Relationship to Embarcadero Historic District.</i> Plaza structures and public spaces should be consistent with the Secretary's Standards with respect to the character-defining features and be compatible with the Embarcadero Historic District by recognizing the bulkhead, pier, and apron zones, with improvements within those zones being compatible with the architectural character of the Embarcadero Historic District.</p> <p>b) <i>Structures at Northeast Wharf Plaza.</i> Structures near the Northeast Wharf Plaza should be designed to be consistent with the Secretary's Standards and compatible with the historic character of bulkhead buildings through the following:</p> <ul style="list-style-type: none"> To feature the Belt Railroad Office Building and recognize its unique waterfront placement as a freestanding structure located on the bulkhead wharf fronting on the Embarcadero Promenade and rehabilitated consistent with the Secretary's Standards, new structures should be set back from the Embarcadero Promenade at least 30 feet and provide visual separation from the Belt Railroad Office Building accomplished by separating the new structures from the Belt Railroad Office Building by at least 40 feet; As part of the design process the Port shall assess the historic integrity of the rear addition of the Belt Railroad Office Building and determine whether it retains sufficient integrity to be considered an integral part of its contributing resource status. Should the addition be determined integral to the contributing resource its treatment shall be consistent with the Secretary's Standards. 	<p>Port of San Francisco and architectural historian consultant</p>	<p>Prior to issuance of Port Building or Encroachment Permits</p>	<p>Port of San Francisco preservation staff and the Planning Department preservation staff</p>	<p>Considered complete upon verification by Planning Department and Port of San Francisco issuance of permit</p>

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CULTURAL RESOURCES MITIGATION MEASURES (cont.)				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza (cont.)</i>				
<p>Mitigation Measure M-CP-6: Northeast Wharf Plaza Performance Criteria (cont.)</p> <ul style="list-style-type: none"> To acknowledge and strengthen the Cruise Terminal as the dominant maritime use of the pier, new structures should be located to respect the sight line from the Embarcadero Promenade to the terminal, and sited to follow the geometry established by the cruise terminal structure (instead of being parallel to the Embarcadero Promenade); New structures within the Plaza shall be designed to support the historic setting of the Embarcadero Historic District including Pier 23, 29 and the Belt Railroad Office Building and shall be compatible but not mimic these historic resources in order to avoid creating a false sense of historical development; and, To architecturally complement the Belt railroad and bulkhead buildings, new structures should be finished in industrial materials characteristic of the Embarcadero Historic District such as concrete, stucco or metal siding and steel sash windows. <p>c) Plantings at Northeast Wharf Plaza. To recognize the Belt Railroad Office Building's historic placement as a freestanding structure within a working maritime environment and the industrial character of the Embarcadero Historic District, significant plantings should be setback at least 20 feet from the Belt Railroad Office Building. Lawn areas in the Plaza should be in raised planters that appear as an additive feature over the pier deck. Other plantings in the Plaza should serve to delineate space and should be limited to trees or plants in clearly defined planters or within the pier deck in a manner that continues to allow the site to be expressed as a pier deck.</p> <p>d) Evaluation for Consistency with Design Criteria. Prior to issuance of Port Building or Encroachment Permits, consult with the Planning Department to review and determine consistency of the Northeast Wharf Plaza with the above performance criteria, as determined by the Port of San Francisco preservation staff and the Planning Department preservation staff. This would include preparation of a Historic Resource Evaluation Report by a qualified historic preservation professional to assess the project's consistency with these performance criteria.</p>				

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TRANSPORTATION AND CIRCULATION MITIGATION MEASURES				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza</i>				
<p>Mitigation Measure M-TR-85: Additional F-Market & Wharves or E-Embarcadero Service</p> <p>The Port shall, to the extent feasible and consistent with annual budget appropriations, financially compensate the SFMTA for the cost of services designed to address the increased demands on the F-line (and if/when applicable, the E-line) resulting from the project. The amount and schedule for payment and commitment to application of service needs shall be set forth in a Transit Mitigation Agreement between the Port and SFMTA.</p>	Port of San Francisco	Transit Mitigation Agreement shall be approved by SFMTA and submitted to the ERO prior to opening of new cruise terminal	San Francisco Planning Department ERO, SFMTA	Considered complete upon receipt of approved mitigation agreement by ERO
AIR QUALITY				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza</i>				
<p>Mitigation Measure M-AQ-2a: Construction Vehicle Emissions Minimization</p> <p>To reduce construction vehicle emissions, the project sponsor shall incorporate the following into construction specifications:</p> <ul style="list-style-type: none"> • Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure, Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. • All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. • The project sponsor shall ensure that construction contract specifications include a requirement that on-road diesel trucks used to transport spoils consist of 2007 or newer model-year trucks with factory-built engines. All on-road diesel trucks shall be required to have emission control labels as specified in 13 CCR 2183(c). The construction contract specifications shall require that the contractor submit to the Environmental Review Officer (ERO) a comprehensive inventory of all on-road trucks used to haul spoils. The inventory shall include each vehicle's license plate number, the engine production year, and a notation of whether the truck is in possession of an emission control label as defined in 13 CCR. The contractor shall update the inventory and submit it monthly to the ERO throughout the duration of the project. 	Port of San Francisco and construction contractor	Manufacturing specifications shall be submitted to ERO prior to construction. Certified mechanic shall check equipment prior to, and during, demolition and construction activities and submit affidavit to ERO.	San Francisco Planning Department and ERO	Following completion of all construction and demolition activities

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AIR QUALITY (cont.)				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza (cont.)</i>				
<p>Mitigation Measure M-AQ-2b: Off-Road Construction Equipment</p> <p>The project sponsors shall ensure that construction contract specifications include a requirement that all off-road construction equipment be equipped with diesel engines meeting USEPA Tier 3 standards for NOx and PM (Tier 2 standards if greater than 750 hp) or better. The following types of equipment 1 were identified as available for rental in Tier 3 models, or are candidates for retrofitting with emissions control technology, due to their expected operating modes (i.e., fairly constant use at high revolution per minute):</p> <ul style="list-style-type: none"> • Excavators • Backhoes • Rubber-Tired Dozers • Concrete Boom Pumps • Concrete Trailer Pumps • Concrete Placing Booms • Compressors • Soil Mix Drill Rigs • Soldier Pile Rigs • Shoring Drill Rigs <p>At construction locations where power demands allow it, propane generators shall be used in lieu of diesel powered generators. Diesel generators used for project construction shall meet Tier 4 emissions standards.</p> <p>In addition to the Tier 3 emissions standard requirement, all equipment must be equipped with a CARB Level 3 Verified Diesel Emission Control System (VDECS) for PM control, where feasible. The construction contractor shall provide proof in the form of a manufacturer's engineering evaluation or other proof to the satisfaction of the Environmental Review Officer that a CARB-verified Level 3 VDECS is not feasible for a particular equipment type.</p>	Port of San Francisco and construction contractor	Contract specifications shall be submitted to Planning Department ERO prior to construction and demolition. Equipment shall be used during demolition and construction activities	San Francisco Planning Department and ERO	Following completion of all construction and demolition activities

1 <http://tier3rental.com/>

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AIR QUALITY (cont.)				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza (cont.)</i>				
<p>Mitigation Measure M-AQ-2b: Off-Road Construction Equipment (cont.)</p> <p>Should it be determined by the construction contractor or its subcontractors that compliance with the emissions control requirements of this mitigation measure is infeasible for any of the above-listed construction equipment, the construction contractor shall demonstrate an alternative method of compliance that achieves an equivalent reduction in the project's fleetwide NOx and PM emissions. If alternative means of compliance with the emissions exhaust requirements are further determined to be infeasible, the construction contractor shall document, to the satisfaction of the Environmental Review Officer, that the contractor has complied with this mitigation measure.</p>	Port of San Francisco and construction contractor	Contract specifications shall be submitted to Planning Department ERO prior to construction and demolition. Equipment shall be used during demolition and construction activities	San Francisco Planning Department and ERO	Following completion of all construction and demolition activities
<p>Mitigation Measure M-AQ-2c: Off-Road Construction Equipment - Electricity Use</p> <p>Hydropower electricity supplied by a public utility shall be used where available at pier construction sites in lieu of temporary diesel or gasoline-powered generators and compressors. Existing utility service or temporary new utility service shall be the preferred power alternative, unless proven infeasible at each location where generators are proposed.</p>	Port of San Francisco and construction contractor	Contract specifications shall be submitted to Planning Department ERO prior to construction and demolition. Equipment shall be used during demolition and construction activities	San Francisco Planning Department and ERO	Following completion of all construction and demolition activities
<p>Mitigation Measure M-AQ-2d: Off-Road Construction Equipment - Best Management Practices (BMPs)</p> <p>The following types of measures are required on construction equipment:</p> <ol style="list-style-type: none"> 1. Use of CARB-verified diesel oxidation catalysts and catalyzed diesel particulate traps if not already included in the design of the equipment to meet Tier 3 standards, or not already required as part of Mitigation Measure M-AQ-2b above. 2. Install high-pressure fuel injectors on construction equipment vehicles. 3. Provide on-site services to minimize truck traffic in or near residential areas, including, but not limited to, the following services: meal or cafeteria services, automated teller machines, etc. 	Port of San Francisco and construction contractor	Contract specifications shall be submitted to Planning Department ERO prior to construction and demolition. Equipment shall be used during demolition and construction activities	San Francisco Planning Department and ERO	Following completion of all construction and demolition activities

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AIR QUALITY (cont.)				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza (cont.)</i>				
<p>Mitigation Measure M-AQ-2d: Off-Road Construction Equipment - Best Management Practices (BMPs) (cont.)</p> <p>The Port shall implement a process by which to select additional BMPs to further reduce air emissions during construction. The Port shall determine the BMPs once the contractor identifies and secures a final equipment list.</p>				
<p>Mitigation Measure M-AQ-2f: Fuels for Off-Road Construction Equipment</p> <p>The project sponsors shall ensure that construction contract specifications include a requirement that all off-road construction equipment used be fueled with propane or biodiesel (B20 blended with California on-road diesel) unless precluded by engine type or warranty.</p>	Port of San Francisco and construction contractor	Contract specifications shall be submitted to Planning Department ERO prior to construction and demolition. Equipment shall be used during demolition and construction activities	San Francisco Planning Department and ERO	Following completion of all construction and demolition activities
<p>Mitigation Measure M-AQ-4d: Return Pier 27 to the Port Within One Month after Completion of the Match for Reconnection of Shoreside Power</p> <p>The project sponsor shall reconnect shoreside power and complete Phase 2 construction of the James R. Herman Cruise Terminal and reconnection of shoreside power at Pier 27 not later than April 1, 2014, if feasible. To accommodate construction of Phase 2 improvements to the Cruise Terminal and reconnection of shoreside power, the Event Authority shall return Pier 27 to the Port within one month of the completion of the Match.</p> <p>Subsequently, the Port shall complete Phase 2 construction of the James R. Herman Cruise Terminal in 2013 to 2014 and reconnect shoreside power at Pier 27 no later than April 1, 2014, if feasible.</p> <p>Should it be determined by the project sponsor that Phase 2 construction of the James R. Herman Cruise Terminal and reconnection of shoreside power at Pier 27 by April 1, 2014 is infeasible, the project sponsor shall document, to the satisfaction of the Environmental Review Officer, that the project sponsor has complied with this mitigation measure to the extent feasible and indicate why full compliance with the mitigation measure is infeasible.</p>	Port of San Francisco and America's Cup Event Authority	Following completion of the America's Cup Events in 2013 and prior to April 1, 2014	San Francisco Planning Department and ERO	April 1, 2014 or earlier

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AIR QUALITY (cont.)				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza (cont.)</i>				
Mitigation Measure M-AQ-4e: Long-term Shoreside Power at Pier 70 The project sponsor shall develop shoreside power at an offsite location that would consist of constructing 12 MW of shoreside power at the Port's Drydock #2 at Pier 70 to serve large cruise, military and other vessels while they are in drydock. Should it be determined by the project sponsor that this measure is infeasible, the project sponsor shall document, to the satisfaction of the Environmental Review Officer, that the project sponsor has complied with this mitigation measure to the extent feasible and indicate why full compliance with the mitigation measure is infeasible.	Port of San Francisco and San Francisco Public Utilities Commission	Prior to decommissioning of shoreside power at Piers 27-29 in 2012	San Francisco Planning Department and ERO	To be in operation during 2012 and 2013; however, this shall be a long-term ongoing measure.
WIND AND SHADOW				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza</i>				
Mitigation Measure M-WI-2: Warning Signs, Limiting Access and/or Design Features on the Eastern Aprons of Piers 27-29 During Hazardous Wind Events The project sponsor shall be required to post warning signs and, if necessary, restrict public access to the eastern aprons of Piers 27-29 during the occurrence of high-speed winds that could result in hazardous wind conditions for visitors, and implement design features that provide wind protection for public access areas, consistent with BCDG and Port design guidelines, as well as <i>Secretary of the Interior's Standards for the Treatment of Historic Properties</i> . Examples of design features would include combinations of permanent or movable fences and partitions, kiosks, street furniture, substantial planter boxes with shrubs, hedges and trees (such as professionally designed landscape/hardscape commonly used to define and protect outdoor dining and seating areas). If average wind speed at pedestrian height exceeds 26 mph, or when the National Weather Service issues high wind warnings for the Bay, the project sponsor shall implement this measure. As experience with the local wind conditions is gained, this trigger should be adjusted to suit the wind conditions that are experienced on the pier.	Port of San Francisco	If average wind speed at pedestrian height exceeds 26 mph, or when the National Weather Service issues high wind warnings for the Bay	San Francisco Planning Department and ERO	Ongoing

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BIOLOGICAL RESOURCES: UPLAND BIOLOGICAL RESOURCES				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza</i>				
Mitigation Measure M-BI-4c: Protection for Breeding Birds on Piers and Associated Structures The project sponsor shall avoid demolition of structures on piers between March 1 and August 1. If demolition must occur during the nesting season, these areas shall be "netted" to prevent gulls from nesting there. Netting materials to be used shall be those developed specifically for bird exclusion. For possible cliff swallow nesting under piers, and in addition to netting, work in these areas shall be preceded by a pre-construction survey if work proceeds during the nesting season. The survey shall take place within two weeks of the start of work, and the nests avoided by at least 50 feet, or other actions developed in coordination with the California Department of Fish and Game (CDFG).	Port of San Francisco	Coordination with, and approval of, CDFG shall occur prior to demolition. Approval shall be submitted to ERO prior to demolition	California Department of Fish and Game, San Francisco Planning Department and ERO	Considered completed upon completion of demolition activities
Mitigation Measure M-BI-4d: Protection for Bat Roosts on Piers and Associated Structures Within two weeks before demolition, buildings showing evidence of bat activity shall be surveyed by a qualified bat biologist. If active maternity roosts are found they shall be avoided, unless disturbance is authorized by CDFG. If no maternity roosts are found, the bat biologist shall take actions under CDFG guidance to make such roosts unsuitable habitat prior to building demolition, such as sealing access routes used by bats when the bats are absent.	Port of San Francisco and bat biologist	Coordination with, and approval of, CDFG shall occur prior to demolition. Approval shall be submitted to ERO prior to demolition	California Department of Fish and Game, San Francisco Planning Department and ERO	Considered completed upon completion of demolition activities
Mitigation Measure M-BI-6a: Bird-Sensitive Night Lighting at the Cruise Terminal Where exterior lights are to be left on at night, the project sponsor shall install fully shielded lights to contain and direct light away from the sky. ²	Port of San Francisco	Installation during project construction	San Francisco Planning Department and ERO	Considered complete upon completion of construction
Mitigation Measure M-BI-6b: Bird-Building Collision Avoidance The project sponsor shall ensure that windows at the cruise terminal are treated to minimize bird strikes, through a combination of fritting, permanent stencils, frosted glass, exterior screens, physical grids placed on the exterior of glazing or UV patterns visible to birds. Windows shall consist of no more than 10 percent untreated glazing.	Port of San Francisco	Installation during project construction	San Francisco Planning Department and ERO	Considered complete upon completion of construction

² According to the International Dark Sky Association's *Outdoor Lighting Code Handbook* (2000), a fully shielded fixture is "A light fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal."

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GEOLOGY AND SOILS MITIGATION MEASURES				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza</i>				
Mitigation Measure M-GE-2: Site-Specific Geotechnical Investigation <p>The project sponsor shall conduct a site-specific geotechnical investigation for piers requiring upgrading under the direction of a geotechnical engineer prior to permitting any new construction or reuse that would increase the load of the structure. The investigation shall be performed to evaluate subsurface conditions and existing structural conditions at the site, and shall evaluate the potential for geological and seismic hazards including settlement, ground shaking, ground rupture, liquefaction, subsidence, slope stability, and lateral spreading. Recommendations shall be made regarding the pile and foundation requirements, seawall stability, seismic design, and mitigation of geologic hazards, and these recommendations shall be included in the project design, subject to the review and approval by the Port of San Francisco Chief Harbor Engineer to determine compliance with the Port of San Francisco Building Code.</p>	Port of San Francisco and geotechnical engineer	Reports shall be reviewed by Port of San Francisco and submitted to the ERO prior to issuance of Port building permits	Port of San Francisco and San Francisco Planning Department ERO	Considered completed upon completion of construction
HYDROLOGY AND WATER QUALITY MITIGATION MEASURES				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza</i>				
Mitigation Measure M-HY-1: Water Quality Best Management Practices <p>The project sponsor shall implement water quality best management practices (BMPs) to protect water quality as well as protected species and their habitat(s) from pollution due to fuels, oils, lubricants, and other harmful materials. BMPs for this proposed project shall follow those detailed in the San Francisco Department of Public Health Pollution Prevention Toolkit for Maritime Industries.³ Vehicles and equipment that are used during the course of a proposed project shall be fueled and serviced in a manner that will not affect federally protected species in the project area or their habitats;</p> <ul style="list-style-type: none"> A Spill Prevention Control and Countermeasure (SPCC) Plan shall be prepared to address the emergency cleanup of any hazardous material and will be available on site. The SPCC shall include: <ul style="list-style-type: none"> Methods to address the emergency cleanup of any hazardous material and what materials will be available on site; 	Port of San Francisco and construction contractor	SPCC and MMDP Plans shall be submitted to the SFDPH, Port of San Francisco and the ERO prior to construction. Plans and measures shall be in place during construction	Port of San Francisco or contractor shall submit a Monitoring Report, detailing survey results and compliance with the specified measure, to SFDPH for approval after construction. Copies of the report shall be sent to the Port and Planning Department ERO.	Considered complete upon agency receipt of SFDPH-approved Monitoring Report

3 Virginia St. Dean, San Francisco Department of Public Health, *Pollution Prevention Toolkit for Maritime Industries*, prepared for: California Department of Toxic Substances Control Under Contract #08-T3625-A2, January 2011

ATTACHMENT B:
CRUISE TERMINAL PROJECT VARIANT – MITIGATION MONITORING AND REPORTING PROGRAM
(Including the Text of the Mitigation Measures Adopted as Conditions of Approval)

Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
HYDROLOGY AND WATER QUALITY MITIGATION MEASURES (cont.)				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza (cont.)</i>				
<p>Mitigation Measure M-HY-1: Water Quality Best Management Practices (cont.)</p> <ul style="list-style-type: none"> - SPCC, hazardous waste, stormwater and other emergency planning requirements; - Measures to prevent spills into the Bay associated with in water fueling, if in water fueling is required on some of the construction barges. Such measures shall include; <ul style="list-style-type: none"> ▪ Secondary booms and/or pads, depending upon where fueling would take place on the vessel; ▪ Secondary containment on the deck of the vessel to contain the petroleum product; ▪ Specifying volume of petroleum products that will be on the vessel and evaluating the potential for spills. Absorbent and cleanup materials (such as oil sorbent boom, heavy oil pads, OilDry Absorbant Floor, etc) of sufficient quantity to clean up potential spill volume shall be provided; and ▪ The locations of properly permitted offsite locations where vessels will be fueled; ▪ In addition, fueling of equipment shall occur using proper fuel transfer procedures as per U.S. Coast Guard regulations (33 CFR 156.120 and 33 CFR 155.320) and spill containment and the fueling location shall be inspected after fueling to document that no spills have occurred. Any spills shall be cleaned up immediately using spill response equipment as identified in the SPCC Plan. ▪ In addition, fueling of equipment shall occur using proper fuel transfer procedures as per U.S. Coast Guard regulations (33 CFR 156.120 and 33 CFR 155.320) and spill containment and the fueling location shall be inspected after fueling to document that no spills have occurred. Any spills shall be cleaned up immediately using spill response equipment as identified in the SPCC Plan. ▪ Well-maintained equipment shall be used to perform the construction work, and, except in the case of a failure or breakdown, equipment maintenance shall be performed off site. Equipment shall be inspected daily by the operator for leaks or spills. If leaks or spills are encountered, the source of the leak shall be identified, leaked material will be cleaned up, and the cleaning materials shall be collected and will be properly disposed; 				

ATTACHMENT B:
CRUISE TERMINAL PROJECT VARIANT – MITIGATION MONITORING AND REPORTING PROGRAM
(Including the Text of the Mitigation Measures Adopted as Conditions of Approval)

Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
HYDROLOGY AND WATER QUALITY MITIGATION MEASURES (cont.)				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza (cont.)</i>				
Mitigation Measure M-HY-1: Water Quality Best Management Practices (cont.)				
<ul style="list-style-type: none"> The project sponsor shall exercise every reasonable precaution to protect listed species, their habitats, and Essential Fish Habitat from construction by-products and pollutants such as demolition debris, construction chemicals, fresh cement, saw-water, or other deleterious materials. Construction will be conducted from both land and water, and care shall be used by equipment operators to control debris so that it does not enter the Bay. A Materials Management Disposal Plan (MMDP) shall be prepared to prevent any debris from falling into the Bay during construction to the maximum extent practicable. The measures identified in the MMDP shall be based on the Best Available Technology, and will include, but not be limited to, the following measures: <ul style="list-style-type: none"> During construction, the barges performing the work shall be moored in a position to capture and contain the debris generated during any sub-structure or in-water work. In the event that debris does reach the Bay, personnel in workboats within the work area shall immediately retrieve the debris for proper handling and disposal. All debris shall be disposed of at an authorized upland disposal site; Measures to ensure that fresh cement or concrete shall not be allowed to enter San Francisco Bay. Construction waste shall be collected and transported to an authorized upland disposal area, and per federal, state, and local laws and regulations; All hazardous material shall be stored upland in storage trailers and/or shipping containers designed to provide adequate containment. Short-term laydown of hazardous materials for immediate use shall be permitted with the same anti-spill precautions; All construction material, wastes, debris, sediment, rubbish, trash, fencing, etc., shall be removed from the site once the proposed project is completed and transported to an authorized disposal area, in compliance with applicable federal, state, and local laws and regulations; Construction material that could wash or blow shall be covered every night and during any rainfall event (if there is one); Construction crews shall reduce the amount of disturbance within the project site to the minimum necessary to accomplish the project; and Measures to prevent saw water from entering the Bay. 				

ATTACHMENT B:
CRUISE TERMINAL PROJECT VARIANT – MITIGATION MONITORING AND REPORTING PROGRAM
(Including the Text of the Mitigation Measures Adopted as Conditions of Approval)

Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
HAZARDS AND HAZARDOUS MATERIALS MITIGATION MEASURES				
<i>James R. Herman Cruise Terminal and Northeast Wharf Plaza</i>				
Mitigation Measure M-HZ-3: Removal of Hazardous Building Materials The project sponsor shall ensure that any building planned for demolition or renovation is surveyed for hazardous building materials including PCB-containing electrical equipment, fluorescent light ballasts containing PCBs or DEHP, and fluorescent light tubes containing mercury vapors. These materials shall be removed and properly disposed of prior to the start of demolition or renovation. Old light ballasts that are removed during renovation shall be evaluated for the presence of PCBs. In the case where the presence of PCBs in the light ballast cannot be verified, the light ballast shall be assumed to contain PCBs and handled and disposed of as such, according to applicable laws and regulations. Any other hazardous building materials identified either before or during demolition or renovation shall be abated according to federal, state, and local laws and regulations.	Port of San Francisco and contractor	During construction	Port of San Francisco or contractor shall submit a Monitoring Report, detailing survey results and compliance with the specified measure, to SFDPH for approval after construction. Copies of the report shall be sent to the Planning Department ERO	Considered complete upon agency receipt of SFDPH-approved Monitoring Report

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 11-76

- WHEREAS, On June 9, 2009, the San Francisco Port Commission authorized Port staff by Resolution 09-33 to enter into a Memorandum of Understanding ("MOU") with the San Francisco Department of Public Works ("DPW") for the proposed Pier 27 James R. Herman Cruise Ship Terminal and Northeast Wharf Plaza Project ("Project" or "Cruise Terminal Project") in the amount of \$1,772,147 for project management services for the program phases from Project development through completion of schematic design; and
- WHEREAS, On April 12, 2011, the San Francisco Port Commission authorized Port staff by Resolution 11-22 to enter into a First Amended MOU, extend the scope of work from schematic design through design development; and
- WHEREAS, On July 12, 2011, the San Francisco Port Commission authorized Port staff by Resolution 11-50 to enter into a Second Amended MOU with DPW for increased design and project management services in an additional amount of \$2,111,517 (inclusive of a 10% contingency) through the completion of construction drawings, assuming Project approval following completion of environmental review; and
- WHEREAS, The status and schedule of the Project now warrant additional funding for DPW services through the completion of core and shell terminal building construction ("Phase 1"), which will encompass 1) administrative services, coordination with regulatory agencies including permit fees and special inspections; 2) Environmental Impact Report consultant services; 3) other specialized consulting services, including geotechnical services; 4) construction management services and related services, all subject to the Port's right in its sole discretion to terminate the MOU if the Project is not approved after completion of environmental review; and
- WHEREAS, Port staff have negotiated with DPW staff for estimated fees in the amount of \$3,894,603, for these services which are reasonable and necessary to complete Phase 1 of the Project; now therefore be it
- RESOLVED, That the Port Commission hereby authorizes Port staff to enter into a Third Amended MOU with DPW to increase the MOU funding from the existing authorized amount of \$3,883,664, to a total amount not to exceed \$7,778,267, which amounts to an increase of \$3,894,603, for Phase 1 Project Construction administration services and related services; and be it further

RESOLVED, that the Port Commission hereby authorizes an extension of the term of the MOU to April 1, 2013.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of December 16, 2011.

Secretary

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 11-77

- WHEREAS, On November 10, 2009, the San Francisco Port Commission authorized award of a contract to the joint venture team of Kaplan, McLaughlin, Diaz Architects and Pfau Long Architecture ("Design Team") in the amount of \$2,661,384 for architectural and engineering services through schematic design for the proposed Pier 27 James R. Herman Cruise Ship Terminal and Northeast Wharf Plaza Project ("Project"); and
- WHEREAS, On December 14, 2010, the San Francisco Port Commission authorized Port staff by Resolution 10-80 to initiate schematic design on Scheme B2, an option that would create a new terminal building at Pier 27 that meets international cruise terminal standards; and
- WHEREAS, On March 22, 2011, Port staff and the Design Team presented the Project schematic design to the San Francisco Port Commission; and
- WHEREAS, On April 12, 2011, the San Francisco Port Commission authorized Port staff by Resolution 11-22 to increase the contract fees for the Design Team for design development services by the amount of \$2,410,070, inclusive of a contingency of \$195,161; and
- WHEREAS, On July 12, 2011, the San Francisco Port Commission authorized Port staff by Resolution 11-50 to amend the contract with the Design Team to include services for Phase 1 and Phase 2 construction drawings and to increase the contract fee from \$771,454, to the amount \$8,110,903, which consisted of an increase of \$2,763,135, and a 10% contingency funds of \$276,314; and
- WHEREAS, The Design Team has satisfactorily completed design and engineering services to date within the authorized budget; and
- WHEREAS, The Project status and schedule warrant additional architectural and engineering services from the Design Team for bidding and construction administration of the cruise terminal building ("Phase 1") of the Project; now, therefore be it
- RESOLVED, That the Port Commission hereby authorizes Port staff to amend the architectural and engineering contract with the Design Team to include services for Phase 1 construction administration, and increase the amount of the contract from \$8,110,903 to a total amount not to exceed \$8,888,292 which consists of an increase of \$777,389, and the Commission further authorizes a contingency fund of \$285,000

(approximately 3.2%) for future contract amendments, if needed, for unforeseen design and related services, and be it further

RESOLVED, That the Port Commission hereby authorizes an extension of the term of the Design Team contract to April 1, 2013.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of December 16, 2011.

Secretary

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 11-78

WHEREAS, On April 12, 2011, by Port Commission Resolution No. 11-22, the San Francisco Port Commission authorized Port staff to utilize the Integrated Project Delivery approach for the procurement of construction services and authorized the San Francisco Department of Public Works ("DPW") to advertise for a Construction Manager/General Contractor to help design and manage the Pier 27 James R. Herman Cruise Terminal and Northeast Plaza Project ("Project"); and

WHEREAS, On April 20, 2011, DPW, on behalf of the Port, issued a Request for Qualifications ("RFQ") to select qualified Construction Manager/General Contractors for the Project for responses to a request for proposal; and

WHEREAS, On June 14, 2011, the Port Commission adopted Resolution No. 11-45, authorizing the contract award for Construction Manager/General Contractor services for the Project to Turner Construction Company for the not-to-exceed amount of \$3,581,137, and authorizing staff to increase the contract amount, if needed for unanticipated contingencies, by an additional \$358,114 (10% of \$3,581,137) for a total contract funding of \$3,939,251; and

WHEREAS, As Construction Manager/General Contractor for the Project, Turner Construction Company will be required to provide a fully functional, complete and operational Project, including, in accordance with the Integrated Project Delivery approach, certain pre-construction services before Project approval; and

WHEREAS, On September 13, 2011, the Port Commission adopted Resolution No. 11-59, authorizing Port staff to execute the amendment to the Construction Manager/General Contractor contract with Turner Construction Company to increase the contract amount from an amount not to exceed \$3,939,251 to an amount not to exceed \$9,989,251 which consisted of an increase of \$6,050,000 inclusive of a contingency for bidding and award of the structural steel subcontractor bid package for the construction of the cruise terminal building ("Phase 1"); and

WHEREAS, The Project status and schedule warrant implementation of construction trade subcontractor packages for the core and shell construction of the cruise terminal building ("Phase 1") of the Project; now therefore be it

RESOLVED That the Port Commission hereby authorizes Port staff to execute an amendment to the Construction Manager/General Contractor contract with Turner Construction Company to increase the contract amount from an amount not to exceed \$9,989,251 to an amount not to exceed

\$41,480,748, which consists of an increase of \$31,491,497, and the Commission further authorizes staff to increase the contract amount by \$3,927,676 (approximately 9.5%) through contract modification or change order, if needed for unanticipated contingencies, to fund the Phase 1 construction trade subcontractor packages, including shed demolition and the design-build shoreside power relocation.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of December 16, 2011.

Secretary



MEMORANDUM

December 10, 2011

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Ann Lazarus, Vice President
Hon. Francis X. Crowley
Hon. Doreen Woo Ho
Hon. Leslie Katz

FROM: Monique Moyer *M Moyer*
Executive Director

SUBJECT: Request adoption of California Environmental Quality Act (CEQA) Findings and a Mitigation Monitoring and Reporting Program (MMRP) in connection with approval of form Venue Leases and Development and Disposition Agreement for the 34th America's Cup project (the "Project"), involving use of Piers 26, 28, 30-32, 9, 19, 19½, 23, 27-29, and 29½ and adjacent water areas; water basins between Piers 32 and 38 and Piers 14 and 22½, all located along The Embarcadero waterfront; Seawall Lot 330; and a portion of Pier 80, located along the north side of Islais Creek, east of Illinois Street (each, a "Venue"). (Resolution 11-79)

Request approval of Development and Disposition Agreement, form of Venue Lease, and related actions to implement the 34th America's Cup Project, involving use of Piers 26, 28, 30-32, 9, 19, 19½, 23, 27-29, and 29½ and adjacent water areas; water basins between Piers 32 and 38 and Piers 14 and 22½, all located along The Embarcadero waterfront; Seawall Lot 330; and a portion of Pier 80, located along the north side of Islais Creek, east of Illinois Street. (Resolution 11-80)

DIRECTOR'S RECOMMENDATION: Approve Attached Resolutions

OVERVIEW

The purpose of this memorandum is to provide the Port Commission and the public with information and analysis regarding the Port approval actions needed for the 34th America's Cup Match and related activities (the "Event" or "AC34" or "Match").

The Defender of the America's Cup, the Golden Gate Yacht Club ("GGYC"), which has the right and duty to organize the 34th America's Cup, formed the America's Cup Event Authority, LLC (the "Authority") to provide professional management and financial

THIS PRINT COVERS CALENDAR ITEM NO. 9B

resources to AC34, in cooperation with America's Cup Race Management ("ACRM") in accordance with the Protocol for the 34th America's Cup.

BACKGROUND

Previous Port Commission staff reports and other City reports provide important background information about the City's endorsement of the Host and Venue Agreement (the "HVA") between the Authority, the City, and the America's Cup Organizing Committee (the "ACOC"), the proposed uses of Event Venues, both on and off of Port property, and related planning efforts, including the following:

- **Port Commission Approval of the HVA:** For information regarding the Port Commission's resolution endorsing the HVA, please see Port Commission Agenda Item 5A on the November 30, 2010 Agenda¹.
- **Board of Supervisors Approval of the HVA:** For analyses of hosting the 34th America's Cup by the Controller, the San Francisco Board of Supervisors ("Board of Supervisors") Budget Analyst, the Office of Economic and Workforce Development and the Port, please see the full Board of Supervisors Agenda for December 14, 2010².
- **HVA:** A copy of the HVA as finally approved on December 31, 2010³ and a description of the changes made to the HVA between approval by the San Francisco Board of Supervisors on December 14, 2010 and final execution on December 31, 2010⁴ may be found on the website for the City's Office of Economic and Workforce Development.
- **Port-Controller Memorandum of Understanding to Reimburse Lost Rent:** For information regarding the Port Commission's resolution approving an agreement between the Controller and the Port to reimburse the Port for revenue lost and other costs due to hosting the 34th America's Cup and for race related costs, please see Port Commission Agenda Item 9A on the February 8, 2011 Agenda⁵.
- **Proposed Uses of AC34 Venue Sites and Description of Required Project Approvals:** For information regarding the proposed uses of AC34 Venues sites,

¹ <http://www.sfport.com/Modules/ShowDocument.aspx?documentid=308>

² http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/bosagendas/materials/bag121410_101259.pdf

³ http://www.oewd.org/media/docs/AC34/12.31_docs/HOST_CITY_AGREEMENT_FULLY_EXECUTED_12.31.10.pdf

⁴ http://www.oewd.org/media/docs/AC34/12.31_docs/AC34_Overview_of_Changes_to_the_Host_City_Agreement.pdf

⁵ <http://www.sfport.com/Modules/ShowDocument.aspx?documentid=666>

both on and off Port property, and for details regarding project approvals by the City and County of San Francisco and other state and federal agencies, please see Port Commission Agenda Item 9C on the November 15, 2011 Agenda⁶.

- **California Environmental Quality Act (“CEQA”):** For copies of Environmental Planning’s CEQA Case No. 2010.0493E The 34th America’s Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza, including the Notice of Preparation, Draft Environmental Impact Report (“EIR”) and Final EIR⁷, please see the Department of City Planning’s Environmental Planning website. A copy of these documents is included in Port Commission files associated with Resolution 11-79.
- **Other Planning Documents:** For copies of other Event-related planning documents, including the People Plan (related to transportation planning), the Zero Waste Plan, the Parks Event Operations Plan, the Water and Air Traffic Plan, the Advertising Plan, the Ambush Marketing Plan, and the forthcoming Youth Involvement Plan and Workforce Development Plan, please see the website for the City’s Office of Economic and Workforce Development⁸. A copy of these documents is included in Port Commission files associated with Resolution 11-80.

STRUCTURE OF THIS REPORT

This report provides information and analysis regarding the Port approval actions needed for the Event, including approval of the findings selecting a project pursuant to CEQA, Venues Leases, and the Disposition and Development Agreement. The report includes the following sections:

- CEQA analysis
- Tenant relocation
- Venues Leases
- Terms of the Disposition and Development Agreement
- Scope of Work approval for Authority Infrastructure Work and Additional Work
- Financial analysis
- Policy analysis
- Recommendation

⁶ <http://www.sfport.com/modules/showdocument.aspx?documentid=2482>

⁷ <http://www.sf-planning.org/index.aspx?page=1828>

⁸ <http://sfgov.org/site/frame.asp?u=http://www.oewd.org>

- Next steps

CEQA

On December 1, 2011, the Environment Planning Division of the San Francisco Planning Department completed a Final Environmental Impact Report ("EIR") for the 34th America's Cup and the James R. Herman Cruise Terminal and Northeast Wharf Plaza projects. The San Francisco Planning Commission will consider certification of the Final EIR on December 15, 2011.

Before the Port Commission can approve of any implementation items for the Project, it must review and consider the EIR information and adopt findings in accordance with CEQA ("CEQA Findings"). The CEQA Findings describe the Project and conclusions in the Final EIR regarding the Project's significant environmental impacts, required mitigation measures, alternatives studied in the EIR, reasons for rejecting alternatives and selecting the Project, and overriding considerations that outweigh any significant environmental effects that could not be remedied by mitigation measures.

As described in the EIR and CEQA Findings, the 34th America's Cup Project has evolved and been refined from the proposed project described in the Draft EIR to the Project before the Port Commission for approval, as described in the CEQA Findings attached to Resolution 11-75. The changes were made in response to refinements in the project, information about significant environmental effects in the Draft EIR, Draft EIR public comments from members of the public, organizations and regulatory agencies, and through the City's interagency coordination efforts to comply with permitting and regulatory requirements. This process has been very rigorous and open for input to many groups and agencies. These changes include the following:

- elimination of wave attenuators, reduced construction of floating docks and reduced construction to prepare Event Venues;
- reorientation of temporary berthing for large spectator yachts in the Rincon Point Open Water Basin, to preserve Bay views from Rincon Park;
- revisions to programming for large screen viewing of the race events within waters of Aquatic Park, to preserve designated areas for swimmers, kayakers and recreational water users;
- provisions to acknowledge a reduced scope of vehicle lane closure along The Embarcadero to manage transportation demand during peak event days when high volumes of spectators are expected along the waterfront; and
- new, additional mitigation measures to reduce the severity of significant air quality impacts.

The new air quality measures include requirement of a new shoreside power installation at the Pier 70 Drydock Shipyard, managed by BAE Systems, San Francisco Ship

Repair ("BAE"), the Port's ship repair operator. Subject to final agreement with BAE and the San Francisco Public Utilities Commission ("SFPUC"), construction of this measure would start in early 2012. The new shoreside power facility will enable BAE to provide electrical power to passenger cruise, military, cargo and other industrial maritime vessels instead of relying on diesel generators while they are at the drydock for repair.

This mitigation measure will require the Port to work with BAE and SFPUC to secure the equipment required, coordinate funding and financing requirements, and connections to the City's electrical power grid. The estimated project cost for this mitigation is \$6.7 million, subject to project bids. Port staff intends to return to the Port Commission in January with a detailed project description and thereafter with the terms of a proposed agreement with BAE in early 2012.

The CEQA Findings are presented as an Attachment A to Resolution No. 11-75 and the Mitigation Monitoring and Reporting Program ("MMRP") is described in Attachment B1-3 below. The MMRP describes each required mitigation measure and how it would be implemented by the Port, other City departments or agencies, the Authority, or other parties to avoid or mitigate significant environmental impacts during construction and operation.

TENANT RELOCATION

In preparation for the 34th America's Cup and the James R. Herman Cruise Terminal and Northeast Wharf Plaza projects, Port staff has been in close communications with potentially displaced tenants at all Venue sites. These issues are addressed in a separate agenda item, which will also be considered for Port Commission approval on December 16, 2011.

Following approval of the Tenant Relocation Plan by the Port Commission, Port staff would use the Tenant Relocation Plan as a guide in implementing the relocation of Port tenants as it relates to the America's Cup Events. The Port greatly values its tenants and will endeavor and make every effort to minimize potential inconveniences that may occur during this transition. The Port has successfully relocated numerous tenants in the past for projects such as the Ferry Building, Giants Ballpark, Pier 1, Piers 1½ to 5 and the Exploratorium. These relocation projects were all successful because of the Port's extensive outreach and continued communication with its tenants.

FORM OF VENUE LEASES

The Venue Leases and Licenses are the short-term contracts that will allow the Authority to occupy Event Venues leading up to and through the Events. These agreements between the Port and the Authority will be delivered when the conditions to delivery specified in the DDA are satisfied. Port Commission approval of the form of Venue Lease (which will be the basis for Venue Licenses) is required because, per the conditions of the HVA, the Port will provide the Venues to the Authority rent free under the Venue Leases and Venue Licenses.

The following business terms have been negotiated between Port staff and the Authority:

Term: The Venue Leases are short-term leases covering the period leading up to the Event and up to 6 months thereafter.

Commencement Date: Currently the dates that the Authority expects to commence occupancy of various Port facilities is as follows:

March 1, 2012	Pier 30-32
June 1, 2012	Piers 26, 28, 30-32, 19, 19½, 23, 29½
December 31, 2012	Seawall Lot 330
March 1, 2013	Piers 27-29

Termination Date: The Authority must return the Venues to the Port no later than 6 months after the final regatta for the 34th America's Cup (the "Match"). Under the DDA, the Authority has long-term development rights to some sites, subject to CEQA review, Port approval of proposed uses, and Public Trust⁹ consistency findings, once more details for the long-term development are known.

Premises: Piers 19-23, Piers 27-29, Pier 30-32, Pier 26, Pier 28, the water areas between Piers 32 and 38 and surrounding Pier 14, and portions of Pier 9 all as shown on the Lease Premises Site Plan attached hereto as Attachment C. Tenant also has the right to berth vessels in the waters adjacent to these facilities.

Discussions about the Venue Leases with the Port about key lease terms are ongoing. Given the Project timeline, Port staff proposes to return to the Port Commission after Board of Supervisors consideration and possible action on the Development and Disposition Agreement to request Port Commission approval of the Venue Leases, likely in January/February 2012.

DEVELOPMENT AND DISPOSITION AGREEMENT ("DDA")

Key purposes of the DDA are to: (1) set forth the obligations of the Authority to improve Port property for the Event, (2) govern Port review and approval of Scope of Work for both pre-match and deferred improvement to Port property performed by the Authority, (3) govern the conditions for delivery of the Venue Leases to the Authority, and (4) set forth the means to reimburse the Authority for its improvements on Port property.

⁹ Most Port property is subject to the common law public trust for navigation, fishery, and Burton Act (Stats. 1968, ch. 1333) authorizing the State's transfer of waterfront lands to the City (collectively, the "Public Trust").

The DDA provides the Authority with certainty to invest further in the design, construction documents and approval process for the Project and to finalize the Project financing. The DDA protects the Port because the Port (1) is not obligated to deliver the Venue Leases and Venue Licenses unless and until the conditions in the DDA are met and (2) regulates the construction and design process. After the Authority completes construction of the improvements described in the scopes of work (each, a "Scope of Work") approved in accordance with DDA, the Port will issue a Certificate of Completion, which upon recordation will terminate the DDA, but not the Port's reimbursement obligation or indemnification obligations of either party.

Port Commission approval of the DDA is required because it concerns a major development on Port property and sets forth requirements for delivering the Venue Leases and Venue Licenses, and the means to reimburse the Authority for its improvements on Port property. Board of Supervisors' approval is required because the DDA amends the HVA by replacing sections 5, 6, and 7 of the HVA, the sections addressing Venue Leases, Authority and Port infrastructure work for the Event and long-term development rights of the Authority.

Infrastructure Work

The DDA includes obligations for both parties to perform improvements to Port property. Port infrastructure obligations are:

- to cause the demolition and removal of Pier 36 by January 1, 2013;
- to complete the Brannan Street Wharf no later than June 30, 2013; and
- to relocate Pier 27 shoreside power facilities to a location near the new Pier 27 cruise terminal building.

The DDA calls for Port delivery of a substantially complete Pier 27 cruise terminal building to the Authority by March 1, 2013.

Authority work falls into five categories: (1) Authority Infrastructure Work (AIW), (2) Additional Work, (3) Deferred Authority Infrastructure Work, (4) Deferred Additional Work, and (5) all other work, as shown in Table 1 below.

Table 1: Description of Authority Infrastructure Work and Additional Work

Authority Work	Description
Authority Infrastructure Work	<p>Authority Infrastructure Work (AIW) is comprised of all pre-Match work performed by the Authority, including dredging and improvements to accommodate the regattas (e.g., dredging for the AC72 catamarans). AIW is subject to reimbursement through the formula described in the balancing section below. Required AIW projects are:</p> <ul style="list-style-type: none">• Authority must perform all Piers 30-32 work required to stage the Event;• Demolition of the Pier 27 shed, and portions of Pier 29 (but Port staff now recommend that the Port elect to undertake this work);• Payment of up to \$2 million for relocation of shoreside power; and• Compliance with Regulatory Conditions of Approval (i.e., conditions placed by BCDC and other permits related to Authority Infrastructure Work).
Additional Work	<p>Additional Work consists of dredging to accommodate spectator vessels and substructure strengthening improvements to Piers 26 and 28. At this juncture, the Authority has submitted specific plans to the Port for dredging only.</p>
Deferred Authority Infrastructure Work	<p>Deferred AIW consists of work at Piers 30-32 not performed pre-match. Deferred AIW may be deferred for up to 5 years after the Venue Lease for Piers 30-32 expires.</p>
Deferred Additional Work	<p>Deferred Additional Work consists of work at Piers 26 and 28 that may be constructed at any time up to 10 years after expiration of the Venue Lease for Pier 26 or Pier 28, as applicable.</p>
All Other Work	<p>The Authority may also undertake other work it deems necessary for the Event at its own expense, subject to the Port's Scope of Work approval.</p>

Venues

The Venues consist of Piers 26, 28, 30-32 and Seawall Lot 330, Pier 19, Pier 19½, Pier 23, Pier 27, Pier 29, Brannan Street Wharf, Pier 80 and water area between either Pier 14 and Pier 22½ (the "Rincon Point Open Water Basin") or Pier 30-32 and Pier 38 (the "Brannan Street Wharf Open Water Basin"). Venues are available for exclusive use by the Authority except for Brannan Street Wharf and Pier 27. Specific provisions for Venues are outlined below.

Piers 26 and 28: The Authority may obtain long-term leases at Piers 26 and 28 at rate of \$6 per gross building square foot at any time until 10 years after expiration of the Venue Lease for the applicable Pier (each, a "Legacy Option Lease"), if it elects to perform Additional Deferred Work at that site or if needed to reimburse the Authority for Authority Infrastructure Work under balancing provisions. Alternately, the Authority may obtain a short-term lease to Piers 26 and 28 to burn off sufficient rent credits granted through balancing.

Seawall Lot 330: Seawall Lot 330 will be transferred to the Authority through a transfer agreement provided that it has either performed Authority Infrastructure Work equal to or greater than the appraised value of Seawall Lot 330 (appraised at \$24 million on July 1, 2011 through a process prescribed by the HVA), or provided adequate security to complete the work. Adequate security may include a guaranty by an entity with sufficient net worth to assure that the Authority Infrastructure Work is completed. Future development of the site will be subject to project-specific CEQA analysis and other City approvals, and final approval action by the California State Lands Commission pursuant to AB 418¹⁰, but no further Port Commission approval.

Piers 30-32: Piers 30-32 is the site of the most extensive infrastructure work. Subject to completing \$55 million of Authority Infrastructure Work, the Authority has a right to a rent-free 66-year lease of Piers 30-32 after expiration of the related Venue Lease, subject to approval of a public trust-consistent use program by the Port and the California State Lands Commission. Long Term development is subject to subsequent CEQA analysis. Following completion of subsequent CEQA review, the Port and the Authority will consider entering into a long-term DDA and long-term leases for Piers 30-32, known as a Legacy Lease. During the Venue Lease the Port will have limited

¹⁰ Assembly Bill 418 (Assemblymember Ammiano) lifted the Public Trust from Seawall Lot 330 and authorized the State Lands Commission to approve a transfer in fee to the Authority if: (a) the Authority completes Pre-Match Authority Infrastructure Work at least equal to the parcel's appraised value (\$24 million); (b) the transfer is complete by September 2012; and (c) the Match is held by December 31, 2013. The bill also addresses the failure to satisfy the conditions to the transfer.

use of the east berth of Piers 30-32 subject to its availability given the Authority's construction schedule and Event usage.

The DDA has a schedule of delivery dates for each Venue attached. If not delivered by the "Outside Delivery Date" which may be no later than the scheduled delivery date, the Authority may terminate the DDA as to a particular Venue. The Port will deliver Venues free of tenants, except as previously agreed (certain cell-phone antennae leases will remain in effect and the Port will retain the lease for Red's Java House unless the Authority elects to assume the lease). If the Port fails to deliver Venues free of tenants, the Authority can accept the Venues with an assignment of the Port's rights, including the right to evict any remaining tenants. The Port also must deliver a policy of title insurance for Piers 30-32, Seawall Lot 330, and Piers 26 and 28 (if the Authority performs Additional Work).

If material deterioration in the physical condition of Venue sites occurs, the Port will identify functionally equivalent space as soon as reasonably practicable, but in no event more than 60 days after the deteriorated conditions are known.

The Authority has the right to extend use of Venues if it defends the America's Cup and selects San Francisco to host the 35th America's Cup events. The parties each will have the right to terminate negotiations if they do not agree upon the new host and venue agreement for a successive defense option within 6 months after the Match, subject to additional analysis pursuant to CEQA.

Force Majeure and Time Extensions

The time limits in the DDA, including the deadlines for delivery of Port Venues to the Authority, are subject to extension for force majeure, which are major events outside the control of either party.

If a CEQA lawsuit results in no AC34 Event occurring in San Francisco, and the Authority has expended substantial sums up to or exceeding \$55 million preparing Piers 30-32 for the Match, the Authority will have recourse to the following forms of repayment: (1) an interim lease of 10 years or longer (if permitted by law) of Piers 30-32 as a parking lot, subject to any analysis required pursuant to CEQA; (2) a long-term right to develop Piers 30-32, subject to project-specific CEQA analysis, with a rent of \$4 per square foot and rent credits for substructure work; (3) if needed, IFD proceeds from any future development of Piers 30-32. The other terms of any future DDA and lease pertaining to future development of Piers 30-32 with the Authority, including financial participation and uses, will be subject to agreement by the parties.

The Authority has a separate right to extend the Match by up to 12 months for any reason, consistent with the terms of the HVA.

Approval of Scopes of Work

The Port has the right to approve all Scopes of Work related to infrastructure provided by the Authority. The DDA provides a process for Port review and approval of amendments/revisions to Scope of Work from time to time. The Port may not withhold consent if an amendment to a Scope of Work is required by applicable laws, including the Port Building Code.

Regarding the proposed pre-Match seismic upgrade, the Port conditionally has approved the Authority Proposed Scope of Work provided that:

- Prior to finalizing its construction plans, the Authority will perform a non-linear time history seismic analysis of Piers 30-32 with peer review by the Port's 3rd party engineer. The Port's 3rd party engineer must concur that the upgrade meets code and is cost-efficient, with final determinations regarding code compliance made by the Port's Chief Harbor Engineer.
- If the Federal Emergency Management Agency (FEMA) has mapped Piers 30-32 as a high hazard flood risk, prior to submitting construction drawings for a future upgrade of Piers 30-32, the Authority must obtain FEMA remapping of Piers 30-32 to permit mixed use development.
- The Authority must obtain other regulatory approvals required for the proposed seismic upgrades developed pursuant to the analyses described above, and the Port's Chief Harbor Engineer must determine that the proposed seismic upgrade for the proposed use meets the Port's Building Code requirements.

Assignment/Transfer

- Venue Leases will allow subleases and use of Venues for Event purposes;
- Before completion of Authority Infrastructure Work, no assignment of Authority's rights is allowed under the DDA (except to Affiliates and subleases to Event sponsors), unless the Port consents in its sole discretion; and
- The Authority may assign its rights to long-term development rights under the DDA subject to Port approval in its reasonable discretion.

Terminating Events

The DDA will terminate if the HVA terminates or the Authority assigns or transfers its rights under the DDA without Port consent and does not cure the default within thirty days. The DDA will terminate as to a particular Venue if the Port does not deliver the Venue by the Outside Delivery Date, unless waived by either party.

Reimbursement of Authority Investment - Balancing

Under the DDA, the Port may repay "Investment Value" through the following means:

- The Port agrees to form an Infrastructure Financing District ("IFD") comprising the Long-Term Lease sites and Seawall Lot 330 and make rent credits and long-term development rights available for balancing;
- The Authority agrees that if Port implements a program to protect against sea-level Rise, the Authority will allow a Community Facilities District ("CFD") to be formed over Piers 30-32 to protect improvements;
- The Port retains an option to pay for (or buy-out) Authority Infrastructure Work in excess of \$55 million, provided the Port makes election within 180 days after the Authority has entered into a Guaranteed Maximum Price ("GMP") contract for particular Scope of Work, and pays the Authority within 5 years at the rate of the cost plus 11% until paid; and
- If the Port revokes its election to pay for Authority Infrastructure Work above \$55 million, the Authority's remedy will be rent credits with 11% annual interest.

Formula to Determine Investment Value

Under the DDA, the Authority's Investment Value will be calculated as follows:

Investment Value = Authority Infrastructure Work Costs + Deferred Authority
Infrastructure Work - \$55 million (repaid by Seawall Lot330 and
Piers 30-32) – Port's buy-out option

Investment Value will be determined incrementally as each Scope of Work is completed and certified project costs are determined. Once established, Investment Value will only be reduced through balancing and by costs the Port must incur to complete Authority Infrastructure Work that does not comply with Scope of Work specifications.

Formula to Determine Legacy Value

Under the DDA the Ports "Legacy Value" will be calculated as follows:

Legacy Value = Fair market value of Legacy Option Leases + IFD funds projected to pay for Reimbursable Work + historic tax credits for Piers 26 and 28 additional work + unpaid Authority and guarantor payment obligations

Balancing

The DDA provides that if Investment Value is greater than Legacy Value, the Authority may elect the following options to balance the amount by which Investment Value exceeds Legacy Value:

- Obtain IFD financing from Long-Term Lease sites to reimburse Rent Credits;
- Reduce the scope of Authority Infrastructure Work or Deferred Authority Infrastructure Work;
- Increase balancing rent credits which may be applied to the Legacy Lease and Legacy Option Leases;
- Change the financial terms of the Legacy Lease, Legacy Option Leases, or Marina Leases;
- Obtain 66-year leases for Pier 26 and Pier 28;
- Obtain a short-term lease for Pier 26 and Pier 28 to apply balancing rent credits until fully used; and
- Obtain a long-term lease at Pier 29 or another mutually agreed pier.

The Port may use any combination of Public Financing available to reimburse Authority for project costs, including IFD. The Port is authorized to suspend issuance of IFD bonds, distribution of proceeds, and the accrual of interest on rent credits while Authority is in default on its property taxes.

Financial Reports

The Port and the Authority must provide the following financial reports:

- The parties must establish pre-development costs within 60 days after effective date of DDA;
- Within 90 days after completion of improvements within a Scope of Work, the Authority will submit a certified statement of construction costs;
- The Authority will submit quarterly financial reports on Investment Value, project costs incurred, and available rent credits based on Investment Value compared to Legacy Value.

Rent Credits/Long-Term Rights

The DDA provides for the following mechanisms regarding rent credits and long-term development rights:

- The quarterly financial reports will include a running tally of available rent credits at any one time;
- Unused rent credits will accrue at a rate of 11% per annum, and be applied at the beginning of each applicable lease year against base rent for that lease year;
- The Port will transfer Seawall Lot 330 to the Authority subject to conditions of AB 418, and subject to a right of termination if the Match does not occur by December 31, 2013 unless that date is extended with the agreement of the California State Lands Commission;
- The Port will deliver long-term leases and DDAs on terms negotiated by the parties for Piers 30-32 and possibly Pier 26 and/or Pier 28;
- A Community Facilities District (CFD) will be formed over Seawall Lot 330 for maintenance of the Brannan Street Wharf;
- The long-term leases will begin only after the subject Venue Leases have expired and the Authority has obtained all necessary permits and Port and Board of Supervisors approvals, subject to the Authority's ability to return subject Venues to the Port for up to 10 years after the Match;
- The Authority is not obligated to perform pier/substructure work at Piers 26-28 and may terminate Legacy Option Leases early if it determines the use of the piers is not safe or economically feasible;
- The Legacy Lease and Legacy Option Leases are assignable to Authority affiliates (and may be subleased to Event sponsors) without Port consent, and to others with the Port's reasonable approval;
- The Port will not charge participation rent on long-term leases;
- The Port will not charge rent during the construction period;
- Base rent for long-term leases during any period of rent credits is set at the following:
 - \$4 per sf for Piers 30-32; and
 - \$6 per sf for other long-term leases;

- Base rent will be adjusted every 5 years by the consumer price index ("CPI") with a floor of 10% and a ceiling of 20%; and
- The Authority may transfer its balancing rent credits by lease assignment.

Interim Uses

The DDA makes the following provisions for leasing of Venues that will be subject to long-term leases:

- The Authority may retain Piers 30-32, Pier 26, and Pier 28 for up to 10 years for interim uses;
- If the Authority retains Piers 30-32, annual base rent will be set at \$910,225.16 adjusted by CPI, (which is the amount the Port earned in calendar year 2010);
- If the Authority retains Pier 26 and Pier 28, base rent will be at the Port's then-effective parameter rental rate for pier warehouse sheds beginning upon the interim lease date;
- If the Authority has rent credits accruing from Pre-Match Authority Infrastructure Work, rent credits may offset interim base rent for any leases the Port grants under the DDA;
- The Authority may instead deliver Venues back to Port for up to 10 years before entering into long-term leases; and
- The Authority must elect to interim lease or return venues to the Port immediately after the Match and provide the Port with 6 months notice that the Authority will return any piers to the Port for re-leasing.

Marina Leases

The DDA provides the following mechanism to reimburse dredging performed to accommodate spectator vessels:

- The Port will enter into an exclusive negotiating agreement for one or more "Marina Leases" at Piers 14-22½ and Piers 32-38, or other locations agreed by the parties, in consideration for Authority dredging that is Additional Work (e.g., for spectator vessel berthing).
- The resulting marina rent credits will not be considered balancing rent credits and may only be used on the Marina Leases, or after Marina Leases are approved, to Legacy Option Leases at Piers 26 or 28.

Attachment D contains a summary of additional DDA terms, including provisions related to construction activities, casualty and risk of loss, and dispute resolution.

SCOPE OF WORK APPROVAL

The Authority has prepared a proposed Scope of Work for waterfront improvements for consideration by the Port, pursuant to Section 6.6 of the HVA. The Port's Engineering Division hired an independent engineering firm, Winzler and Kelley, to review major plans and make recommendations to Port staff. Table 2 below contains cost estimates and notes regarding the proposed work.

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Table 2: Pre-Match Authority Infrastructure Work and Additional Work

Proposed Work	Estimate	Notes
Pre-Match Authority Infrastructure Work		Constructed in 2012
Piers 30-32 Upgrades including partial seismic upgrade	50,000,000	Event Authority cost estimate including 42 seismic piles and seismic joint. Final seismic design will be resolved through linear time-history analysis, peer reviewed by Port engineering consultant.
<i>Construction Contingency at 10%</i>	5,000,000	Event Authority cost estimate
<i>Soft Costs</i>	3,500,000	Event Authority cost estimate
Subtotal Piers 30-32	\$58,500,000	
Remaining Pre-Match Authority Infrastructure Work		
Pier 27 Stormwater and Pier 29 End Wall	1,315,000	Port consultant estimate - excludes Pier 27-29 demolition
BCDC Costs (Pier 19 south apron repair, Pier 64 removal, Pier 23 handrail, Pier 1/2 removal, shed/fill removal at other locations TBD)	5,300,000	
Piers 32-36 Dredge Costs	2,500,000	Blended Authority and Port cost estimate
Pier 27 Shoreside Power Relocation	2,000,000	Port consultant estimate (Boudreau & Assoc.). Port scope of work approval includes mechanism to reduce this dredge area if not needed for Event.
Pier 29 Substructure	500,000	Host and Venue Agreement Section 6.2
Mitigation (LTMS, USACE)	700,000	Event Authority cost estimate
Subtotal Remaining Pre-Match Authority Infrastructure Work	\$12,315,000	
<i>General Contractor's Fee, Bonds, Design & Estimating Cont., General Conditions</i>	1,547,250	
Subtotal	13,862,250	15%
<i>Construction Contingency at 10%</i>	1,186,225	
Subtotal	15,048,475	
<i>Soft Costs at 6%</i>	459,900	Excludes design costs for Pier 19 apron. Port had engineering plans for this work. Also excludes design costs for relocating shore power.
Total Pre-Match Authority Infrastructure Work	\$74,008,375	
Pre-Match Additional Work		Dredged in 2012
Dredging at Pier 9, Piers 14 North and South, Pier 28 South, and Portions of Piers 32-38 Basin	3,700,000	
Subtotal Pre-Match Additional Work	3,700,000	Event Authority cost estimate
Total Pre-Match Authority Infrastructure Work & Pre-Match Additional Work	\$77,708,375	

Attachment E contains the Scope of Work Approval recommended by Port staff to the Port Commission.

In summary, Port staff recommends that the Port Commission authorize Port staff to approve a Scope of Work of Pre-Match Authority Infrastructure Work with a cost not to exceed \$75 million and approve dredging described above as Additional Work, subject to the following conditions:

Authority Infrastructure Work

- The Port will undertake the demolition of the Pier 27 shed and a portion of the Pier 29 shed, along with the Pier 27 Administration Building (previously proposed to be conducted by the Authority), to facilitate coordination with cruise terminal construction and site staging;
- Structural work for Piers 30-32 is approved, except as noted, subject to finalization of a Stormwater Control Plan for the site that is acceptable to the San Francisco Bay Regional Water Quality Control Board ("Water Board");
- The Port conditionally approves the Pre-Match partial seismic upgrade of Piers 30-32 subject to completion of a non-linear response history (time-history) analysis using past earthquake events as suggested by the BCDC Engineering Criteria Review Board, which will be peer reviewed by an engineering consultant selected by the Port;
- Pier 29 substructure improvements and Pier 29 end wall construction consistent with Secretary of the Interior's Standards for Treatment of Historic Properties and related Port policies, and Pier 27 stormwater improvements (subject to approval by the Water Board) are approved;
- Improvements related to BCDC requirements are approved, including removal of Pier 64 with a replacement nesting platform, removal of Pier ½, repair of the Pier 19 apron, and installation of a handrail on Pier 23;
- Other regulatory requirements related to construction on Port property, as well as soft costs, are conditionally approved, subject to submittal of detailed costs and review and approval by Port staff;
- Dredging for AC72 catamarans between Piers 32-38 is conditionally approved, subject to the following requirements:
 - Approval by the Dredged Materials Management Office;
 - The Authority shall use reasonable efforts to limit the proposed dredge to serve the number of AC72 catamarans that will actually be competing (and thus require mooring locations);
 - To the extent that fewer mooring locations are required, the Event Authority will reduce the proposed dredge area by moving the southern boundary of the

dredge to the north, first eliminating the portion of the proposed dredge under the former footprint of Pier 36;

- The Port will coordinate with the Authority to request that America's Cup Race Management survey the competing teams prior to the proposed dredge to determine minimum dredge depth requirements; and
- The Port will provide final approval of the remainder of this proposed dredge no later than June 1, 2012.

Additional Work

- Dredging at Pier 9 South, Pier 14 North and South, Pier 28 South, and the portion of Piers 32-38 required for large spectator vessels is approved, pending final approval by the Dredged Materials Management Office.

Post-Match Work

The parties jointly have begun to assess the costs of the work required to complete future seismic upgrades to Piers 30-32. No such seismic design has been engineered and seismic modeling of the future upgrade will be required based on future construction plans. However, the range of seismic piles that may be required is estimated at 90-120 six foot steel piles. Assuming a 20% cost contingency, and 4% annual construction cost inflation, the Port estimates the potential cost of this future seismic upgrade at \$31 million.

Together with planned investments pre-Match, this cost would bring the total investments for which the Authority is either seeking or will seek reimbursement to \$105 million. This excludes any future work for Piers 26 and 28 which was estimated at \$25 million in HVA.

Based on the Port's review of the proposed Scope of Work and associated cost estimates, including review by the Port's third-party engineering consultants of key elements, the Port finds that the Event Authority has met the requirements of HVA Section 6.5 to identify a minimum scope of work for the Authority Infrastructure Work with an estimated cost of \$55 million to be constructed before the Match.

PROJECT FINANCIAL ANALYSIS

Hosting the Event in San Francisco will generate significant public benefits for the City, generating an enormous number of jobs and economic activity in a very short period of time. In order to understand the potential economic impact, the City commissioned a detailed analysis of the potential economic benefits of hosting the Event in San Francisco¹¹ (the "Economic Impact Report").

The Economic Impact Report estimated that the Event would attract approximately 3 million local visitor days and over 600,000 visitor days from outside the region. The Event is expected to generate the equivalent of 8,840 jobs and more than \$1.4 billion of new economic activity for the region. Based on that level of visitation, the Event is expected to generate nearly \$85 million in local and state taxes and more than \$24 million to the City's General Fund. Changes in visitation levels would result in corresponding changes to tax receipts and employment.

The City Controller is currently updating economic benefit estimates for consideration by the Board of Supervisors.

Port staff analyzed the Event's potential effects on Port revenues, as described in the staff report for Port Commission Agenda Item 5A on the November 30, 2010 agenda.¹² Port retail and maritime tenants are expected to realize most of the expected benefits of the Event. Though the Port does not collect participation rents from most maritime tenants, the increased demand for their services will help the overall health of maritime industries and the demand for Port properties. The Port will experience increased percentage rents from excursion operators as well as Port restaurants, retail stores and parking lots.

FINANCIAL ANALYSIS

Short-term Rent Loss

The HVA affords the Authority rent free use of a number of Port facilities. As a result of the Memorandum of Understanding (MOU) between the Port and the City Controller, executed on March 22, 2011, the City will reimburse the Port for lost rent during the Event. The reimbursement process described in the MOU provides the Port with a "Payment in Lieu of Rent"¹³ which is intended to neutralize any potential effect of the 34th America's Cup on the Port's rental revenues through early 2014 (6 months after the

¹¹ A detailed analysis of the potential economic benefits of hosting the Event in San Francisco, "*America's Cup: Economic Impacts of a Match on San Francisco Bay*" was completed jointly by the Bay Area Council Economic Institute and Beacon Economics and issued in September 2010, which can be found at:

http://www.bayeconfor.org/media/files/pdf/San_Francisco_America_Cup_Economic_Impact_Report.pdf

¹² <http://www.sfport.com/Modules/ShowDocument.aspx?documentid=308>

¹³ Terms in quotations indicate terms defined in the MOU.

Match). The MOU does not reimburse the Port for lost rent revenues which are associated with the Authority's long term development rights discussed below. Using the current rent rolls and the timeframes for Event Venue related use specified in the DDA, Port staff's best estimate of rent loss during the period of the Event is \$6.3 million (shown on Table 3 below).¹⁴

Table 3: Estimated Payment In-Lieu of Rent

	FY 11/12	FY 12/13	FY 13/14	Total
Lost Gross Rent	947,691	4,193,727	3,203,374	8,344,792
- Residual Rent	-	-	-	-
- Rent From Relocated Tenants	76,514	525,979.64	401,929.53	1,004,424
- Increased Percentage Rents	0	76391	949143	1,025,534
= Payment In Lieu of Rent	871,177	3,591,356	1,852,302	6,314,834

Other Port Costs for the Event

The Port estimates that it is incurring incremental costs due to the 34th America's Cup of \$1.1 million for temporary staffing positions, security, and other work, and approximately \$1.8 million for tenant relocation, settlement, and litigation expenses between FY 2011/12 and FY 2013/14. The Port requested these funds from the America's Cup project budget which is anticipated to be supported with private funds raised by the America's Cup Organizing Committee (ACOC) to the extent such funds are available. The ACOC has pledged to raise \$32 million to offset City expenses, \$12 million by the end of 2011, and \$10 million in each following year. During budget deliberations in February of 2012 for the FY 2012/13 and FY 2013/14 budgets, Port staff will update the Port Commission on the availability of ACOC funds to reimburse Port project costs.

Long-Term Development Options

The main principle underlying the HVA is that the Authority will provide the City with private investment in public facilities, which the Port repays by: (1) removing the public trust from Seawall Lot 330 and transferring ownership of this parcel, and (2) through long-term rent free use of other Port facilities for long term development commensurate with the Authority's investment. The Authority's investment earns 11 percent interest over the life of the repayment period.

The Authority improvements that are eligible for repayment are discussed in detail above. As described above, Port staff has received the Authority's proposed Scope of Work for Deferred Authority Infrastructure Work, and the estimate is \$74 million pre-

¹⁴ Total Payments in Lieu of Rent were previously estimated at \$6.7 million in February of 2011. The reduction to \$6.3 million is largely due to rescheduling the delivery of Port facilities to later dates.

Match, and \$31million post-Match, for a total of \$105 million. Should these Scopes of Work be approved, the Authority would recover the costs through a cash payment or rent credits applied against the rent owed in long-term leases on a number of piers, subject to term sheet endorsement by the Port Commission and the Board of Supervisors, to be delivered as provided in a long-term development and disposition agreement.

These costs substantially exceed the \$55 million costs to prepare the waterfront for the Event that the Authority and the Port estimated during the period the HVA was being negotiated and was approved by the Port Commission and the Board of Supervisors.

Method of Repaying Authority Improvements

The Port and the City have two primary options for repaying the Authority for the reimbursable work. One option is to repay the amounts over \$55 million in cash, payable within 5 years after the reimbursable work is completed. The principal advantage of exercising this “buy-out” option is that the Port would limit the downstream number of rent-free leases on Venues that it would be obligated to grant to the Authority, as the buy-out would reduce or eliminate the Authority’s rent credits.

If the City does not exercise the buy-out option in full, the primary remaining options for balancing the Authority’s investment above \$55 million is to obtain, to the extent of its investment:

1. proceeds of infrastructure financing district bonds to capture the tax increment from development at Seawall Lot 330 and Piers 30-32, and potentially at Piers 26, 28 and 29, that would have otherwise accrued to the City;
2. long- or short-term leases for Piers 26 and 28 on terms specified in the DDA; and
3. a long-term lease for Pier 29 at a \$6 per sf or another mutually agreed pier.

Buy-out Versus Rent Credit Option

Port staff recommends to the Port Commission that the Port “buy-out” the Authority’s net investment balance in Port improvements rather than transferring more assets to the Authority. The buy-out option is financially superior because the Authority earns 11 percent interest (per the HVA) on any net investment balance until paid or defeased through rent credits. However, the cost to the City to finance this obligation is expected to be approximately 6 percent. As a result, the rent streams the Port would retain from the piers is more than the cost of debt service payments.

As one example, if the Authority’s reimbursable work totals \$95 million, the Authority would be repaid first by Seawall Lot 330 and second by a 66-year rent free lease at Piers 30-32 for a total repayment of \$55 million thereby leaving a \$40 million balance. Remedies to the Authority to repay the remaining balance include all of the sources listed in items 1-3 above. If, instead the City exercises the buy-out option on the

remaining \$40 million, the savings to the Port from exercising the buy-out option would total \$26 million in present value. This represents an assumed analysis of the value of the future IFD revenues and likely rent streams the City and the Port would otherwise reimburse the Authority for its \$40 million of investment balance, accruing annually at 11 percent interest (Piers 29, 19, 19½ for modeling purposes). Notably, these rent streams assume current uses and rent levels at the piers. Based on the condition of these facilities, and the planned improvements at Piers 27 and 29, development at these piers would likely enhance the buy-out value significantly.

Table 4: 2011 Present Value of Rent Streams (\$ millions)

Financial Impacts (millions)	Amount	Present Value
Port Retained Rent Revenues and IFD	\$230.22	\$58.48
- Debt service associated with payoff	<u>\$95.79</u>	<u>\$32.31</u>
Payoff Net Benefit	\$134.43	\$26.17

Replacing the Authority's 11% interest rate with a bondholder's 6% interest rate also increases the reimbursement value as described below. The table below compares the present value of the rent streams between an 11% interest rate and a 6% interest rate.

Table 5: 2011 Present Value of Rent Streams (\$ millions)

Interest Rate	Rent Credit Rate 11%	Revenue Bond Rate 6.0%
Pier 29	5.7	11.3
Pier 19	4.9	13.7
Pier 19.5	1.7	4.5
Pier 23	5.0	14.2
Subtotal	34.0	80.9
Pier 26	4.5	8.0
Pier 28	3.6	4.7
Total	42.1	93.6

As a result, Port staff recommends that the City exercise the option to buy-out investments above \$55 million pursuant to HVA Section 7.7, and that the Port Commission approve Scopes of Work for pre-Match spending up to \$75 million consistent with the Authority's current estimate and allowing for some cost inflation. The Port's projected ability to repay this debt is limited to \$15 million as described below.

Issued Debt and Future Capacity

In February 2010, the Port issued \$36.7 million in Revenue Bonds in two series - a non-AMT tax-exempt series (Series 2010A) and a taxable series (Series 2010B). The capital projects receiving funding from these bond proceeds include the Pier 27 cruise terminal project, Piers 90-96 backlands, design work for Piers 19-23, Piers 33 and 35,

Pier 19 roof replacements, and the Pier 50 valley. When the bonds were sold, the Port prepared five-year projections of its net revenues and debt service, which included the assumption that the Port would be issuing approximately \$59.5 million in additional debt within that five year period (2010-2015). These projections were based on (1) \$10 million in net annual revenues, (2) an assumption that all future debt would be tax-exempt and (3) the addition of new revenue sources. The total debt capacity assumed was \$68.8 million.

The current projections¹⁵ estimate \$15.3 million in net annual revenues in FY 2011/12. Based on this, consideration of the need for taxable debt, revised timing and revenue estimates for development projects underway, rent loss from the long term development rights at Seawall Lot 330 and Piers 30-32, and development options at Piers 26, 28 and 29, the Port can issue approximately \$65 million of debt over the next five year period (2012-2017).

The planned uses for the revised Port's debt capacity are to issue debt to (1) complete Phase I of the Cruise Terminal project and provide financing for Phase II that is recovered through a planned passenger facility charge, (2) to finance shoreside power at the drydock on Pier 70 to meet the air quality mitigations for the Cruise Terminal project, and (3) to finance projects that retain and enhance existing Port revenues as follows (reflects project proceeds, not par amounts):

- 2012 - \$15.5 million for Phase I for the Pier 27 cruise terminal project;
- 2014 - \$25 million for pier utility projects to preserve existing revenues, and for Piers 19-23, or for other revenue generating projects;
- 2014 - \$4.5 million for Phase II of the Pier 27 cruise terminal project, repaid through a passenger facility charge; and
- 2013/22 - \$676,000 annual loan repayment for a \$5.7 million shore power installation at the Pier 70 drydock. A utility surcharge will support 75 percent of the payment.

After meeting the Port's near term requirements, the remaining capacity is approximately \$15 million. Based on the financial benefits of the buy-out option, Port staff recommends that the Port Commission authorize use of this remaining capacity to exercise this option. This would result in a debt service payment of \$1.2 million from FY 2012/13 through FY 2042/43. Retained revenues streams from interim rents at Piers 30-32, 26, 28, and 29, and ongoing rents from Piers 19, 19½ and 23 are utilized to repay the debt service in every year except 2013. In that year, \$1.19 million in other Port sources must be identified to service the debt. In FY 2017/18 and FY 2018/19, \$1.46 million in other Port funds must be utilized to maintain 2.0x coverage of the overall debt portfolio. The limited and short term use of other Port resources to service

¹⁵ Debt and future capacity projections are estimates based on assumptions regarding available net revenues and interest rates. Prevailing market conditions at the time of issuance will determine actual debt service payments.

the debt of the buy-out are more than offset by the longer term savings to the Port of exercising this option, which is approximately \$18 million in present value.

Authorizing a Port buy-out of more than \$15 million would require the Port to reduce its repair and replacement capital budget below the baseline of \$8 million per annum, or the identification of new revenues or operating expenditure reductions. Port staff recommends that authorizing such repayment to service debt for a buy-out greater than \$15 million require future Port Commission consideration and approval.

Post-Match Expenditures

It is critically important that reimbursement for post-Match expenditures for substructure improvements at Piers 30-32 to support long term development be limited to certain legacy value sources, such as IFD proceeds, development rights at Piers 26, and 28 and 29. Without a limit to the amount of Authority investment that requires repayment, it would be difficult for the Port to enter the credit market to issue debt for up to 10 years. This would mean that the planned debt issuances described above would not be possible, eroding the Port's ability to deliver key projects, protect its assets, and enhance revenues. This situation could lead to a downgrade in the Port's credit rating. Further, the Port Commission and the City would be prioritizing public subsidy for development at Piers 30-32 without knowing the total amount or the trade-off decisions this represents from other future waterfront improvements.

While the current estimate of Authority investment totals \$105.07 million, the repayment is based on actual costs. All the properties listed in the HVA (Seawall Lot 330, Piers 30-32, 26, 28, 29, 19, 19½, and 23) combined with other public sources (IFD), do not provide sufficient rent credits if the investment is in excess of \$115 million.

Key Financial Findings

- The City and the Port should minimize Authority investments repaid through rent credits because transferring rent credits in the form of Port property leases is expensive and detrimental to the Port.
- The buy-out option reduces the financial impact substantially because this option reduces the cost to the City, while increasing the reimbursement value.
- The revenue streams retained by the Port are sufficient to repay payoff issuances, however certain years must dip into other Port revenues to repay the debt obligations.
- Containing Authority investment is key to maintaining the Port's future financial condition and the ability of the Port Commission and the City to make trade-off decisions among future waterfront improvements.

- Provisions of the HVA providing additional development rights at other locations in exchange for increasing costs at a given location in effect represent the use of the Port's balance sheet to subsidize development at one or more locations. Limiting this risk is the key to the Port's ability to partner in delivering the Event and to managing its transition back to normal Port operations after the Event.

CONTINUED NEGOTIATIONS

The Authority and the Port have recently started to determine the actual, probable costs of proposed waterfront improvements. As indicated earlier, the Port has obtained 3rd party cost estimates of work proposed for Piers 30-32 and Piers 27-29 improvements based on 30-60% design drawings submitted by the Authority. The Authority recently has begun to receive bids for the proposed work as well.

The parties are exploring possible solutions to reach an appropriate allocation of development risk between the parties based on the framework of the HVA and considering the Port's ability to pay as it relates to the Port's other waterfront obligations. Simultaneously, the City's Risk Manager is pursuing additional bids and information related to Event-related insurance coverage required pursuant to the HVA.

Given the extremely tight timelines to prepare for the Event, the parties have agreed to seek Port Commission consideration of the DDA while these negotiations are finalized.

Potential mechanisms include, but are not limited to, one or more of the following: (1) a financial recovery residual payable from future leasehold value available at the expiration of the applicable long-term lease that would allow the Authority to recover repayment of additional rent credits not repaid from the sources described above under the header "Method of Repaying Authority Investments"; (2) placing a maximum cap on the Authority's recovery of reimbursable project costs; and (3) providing a source of recovery to the Authority from other Port assets to be identified in the future.

As of the date hereof, the parties anticipate submitting recommended solutions to appropriately share the risk of the proposed costs of preparing the waterfront for the 34th America's Cup to the Port Commission at its meeting on Friday, December 16, 2011.

POLICY ANALYSIS

The economic benefits of hosting the Event to local and regional businesses and workers will be substantial, and will help stimulate the region's recovery from the recent recession and stagnation of job creation.

Fiscal analysis of the AC34 agreements indicates that hosting the Event will require substantial public investment. Port staff offers the following policy analysis to assist the Port Commission, the Board of Supervisors and the Mayor in their respective deliberations:

Project Benefits

- AC34 will establish San Francisco Bay's identity as a world-class venue for the sport of sailing and generate interest in the sport in 2012 and 2013.
- The Event will increase both short-term and permanent public access to the waterfront by providing public viewing opportunities of the America's Cup live racing events at close range from various locations on the waterfront around Central San Francisco Bay, some of which are not currently publicly-accessible.
- The Authority will provide infrastructure and structural upgrades to Port facilities consistent with Port of San Francisco building code requirements and the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- Throughout joint planning efforts, the Authority and the City have emphasized the Bay and natural resource stewardship by incorporating sustainability principles in the planning and management of all race events and operations, including strategies identified in the People Plan and Zero Waste Plan.
- AC34 will generate substantial new demand for the Port's retail and maritime tenants.
- The James R. Herman Cruise Terminal and Northeast Wharf Plaza projects at Pier 27 are the beneficiaries of major public interest in AC34. The City has been generous in its support of these projects and the projects have seen their project timeline substantially accelerated as a result of AC34.
- For Piers 30-32, the substructure and deck repairs conducted by the Authority will improve a facility that is designated as a major development opportunity site in the Port's Waterfront Land Use Plan. Absent AC34 and the opportunity for Authority investment in Piers 26 and 28 after the Match, the Port did not have a meaningful capital plan or land use strategy to save these valuable historic resources.
- The Project includes many refinements and new mitigation measures which substantially reduce the amount and severity of construction and Port operational air emission impacts including installation of shoreside power capability at the Pier 70 drydock shipyard.
- AC34 will generate thousands of local jobs leading up to and during the Event.

Project Risks

Some of the risks posed by the Project are unusual for a Port development agreement, and Port staff only recommends assuming such risks in the context of a major international event such as the 34th America's Cup. The following are the major risks identified to date by Port staff:

- The projected cost of proposed waterfront improvements substantially exceeds the costs previously estimated by the Authority and the Port.
- The terms of the DDA do not provide the Port financial participation in the future development of Piers 30-32 and Seawall Lot 330, contrary to standard Port development practice and despite substantial public investment in Piers 30-32 in the form of rent credits and IFD proceeds.
- The proposed long-term marina location in the Piers 14-22½ Rincon Point Open Water Basin was found to have significant adverse land use impacts on the ecological health of the Bay and conflicts with the *BCDC Special Area Plan for the San Francisco Waterfront*.
- The DDA does not currently apportion the risk of Project cost overruns in a manner that is typical for Port agreements. Usually, the Port and its partner jointly assess project costs and agree on rent and rent credit terms; costs incurred above that amount are usually assumed by the Port's private partner.
- The potential lost lease revenues if the Port does not elect to pay above \$55 million could fundamentally alter the Port's operations through significant, near-term budget reductions.
- Commencing in 2014, the Port may see a return of 3 to 7 finger piers to Port control. The Port will need to lease these piers in short order to maintain stable revenues in the period after the City's commitment to replace the Port's lost rent ends. To prepare, the Port may be required to make investments in these facilities to ready the facilities for future tenants.
- The improvements for the 34th America's Cup may impact the Port's cruise business before and during the race due to temporary loss of cruise berths at Pier 27 and Piers 30-32.

The issues described above are serious public policy considerations. Port staff notes these issues to facilitate a robust public policy discussion and to ensure that the Port Commission, the Mayor and the Board of Supervisors may take final steps to approve the actions needed to facilitate hosting of the 34th America's Cup in San Francisco Bay with complete information in hand.

RECOMMENDATION

The 34th America's Cup offers an opportunity to create a one-of-a-kind maritime experience, even in a city that already hosts a diverse and colorful mix of maritime uses along the Port waterfront. The Event would provide extraordinary public access and maritime viewing opportunities along the Port's waterfront. The proposed infrastructure work and long-term development will bring unprecedented revitalization opportunities to the Central Waterfront with rehabilitation of Piers 30-32 and potentially Pier 26 and Pier 28.

As provided in the attached CEQA findings, and for the reasons described therein, Port staff recommends adoption of the AC34 Project Variant described in Chapter 11 of the FEIR. The Port Commission, acting in its capacity under CEQA, also has at its option the ability to select a different alternative studied in the FEIR than that recommended by Port staff, or to direct staff to combine elements from the AC34 Project, the AC34 Project Variant, or the FEIR alternatives, provided that the particular combination of events has been adequately studied, as required by CEQA.

If the Port Commission is concerned about the *physical impacts* of the deal structure that provides for expanded development rights in exchange for greater waterfront investment, the Port Commission could select the Reduced Intensity Development Alternative or its subalternative in the FEIR. If the Port Commission is concerned about the *physical impacts* of proposing marinas at locations that conflict with the BCDC Special Area Plan for the San Francisco Waterfront, it could select locations in South Beach and Mission Bay that would substantially address the identified impacts.

At the Port Commission's December 16, 2011 meeting, Port staff will present to the Port Commission its recommendations for a final agreement with the Authority on outstanding matters in the DDA. Port staff recommends that the Port Commission approve the DDA and authorize Port staff to approve Scopes of Work if such cost estimates are (1) independently reviewed and (2) their summation does not exceed \$75 million. As discussed above, Port staff projects that the financial implications of approving work with cost estimates exceeding \$75 million have significant implications to the Port's ability to operate and maintain Port assets under the financial terms of the DDA and should be a matter of consideration for the Port Commission. If aggregated costs exceed \$75 million, Port staff will return to the Port Commission to consider next steps.

The Port maintains a fiduciary and Public Trust obligation to serve the entire waterfront, even as it fulfills its commitments to the Authority. Port staff thus recommends that the Port Commission exercise its rights under the DDA to reimburse the Authority for Pre-Match work in excess of \$55 million, up to a maximum of \$15 million, or \$20 million if Port or City staff can identify additional funding satisfactory to the Port Commission. Port staff seeks Port Commission direction to work with City staff to secure City funding for this reimbursement through City certificates of participation (COPs) or another appropriate City funding vehicle. If so directed, Port staff will bring approvals to enter into these funding agreements to the Port Commission at a later date.

NEXT STEPS

If the Port Commission approves the DDA, Port staff will forward the DDA to the Board of Supervisors for approval, as a replacement for Sections 5, 6 and 7 of the HVA. It is expected that the Board of Supervisors will consider Event-related approvals in January 2012.

Additionally, Port staff will proceed with the numerous other regulatory approvals and permits needed including the BCDC SAP amendments required for the Event.

Port staff will return to the Port Commission in 2012 to update the Port Commission regarding these policy approvals, and to begin seeking policy direction about staff planning for post-Event financial and leasing strategies.

Port staff wishes to thank Mayor Ed Lee and his staff and a host of dedicated City staff, including City Planning, the Office of Economic and Workforce Development, the Office of the City Attorney, the Recreation and Parks Department, and staff at each of the Port's regulatory partners, the U.S. Coast Guard and the National Park Service for the extraordinary efforts to date to prepare for the 34th America's Cup. We also wish to extend our thanks and appreciation to staff and representatives of the America's Cup Event Authority and America's Cup Race Management for the extremely thoughtful work preparing the Event Plan.

Prepared by: Brad Benson, Special Projects Manager
Jonathan Stern, Asst. Deputy Director, Planning & Development
Elaine Forbes, Deputy Director of Finance and Administration
Diane Oshima, Asst. Deputy Director, Planning & Development

Attachments

- Resolution 11-79
 - Attachment A: CEQA Findings
 - Attachment B1& B2: Mitigation Monitoring and Reporting Program
 - Attachment B3: Archeological Testing, Monitoring, Data Recovery & Reporting
 - Attachment C: Premises Map
- Resolution 11-80
 - Attachment D: Remaining Terms of Development and Disposition Agreement
 - Attachment E: Scope of Work and Port Approvals

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 11-79

- WHEREAS, The 34th America's Cup Regatta (the "Project") comprises physical improvements, entertainment and spectator programming, and event operations planned for various sites along the San Francisco Bay waterfront on properties under the jurisdiction of the Port Commission, the City and County of San Francisco, and the National Park Service; and
- WHEREAS, On December 15, 2011, the Planning Commission reviewed and considered the Final Environmental Impact Report (Final EIR) in Planning Department File No. 2010.0493E, consisting of the Draft EIR and the Comments and Responses document, and found that the contents of said report and the procedures through which the Final EIR was prepared, publicized and reviewed complied with the provisions of the California Environmental Quality Act (CEQA), the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code and found further that the Final EIR reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the Draft EIR, and certified the completion of said Final EIR in compliance with CEQA and the CEQA Guidelines in its Motion No. ____; and
- WHEREAS, The Port Commission has reviewed and considered the information contained in the Final EIR, all written and oral information provided by the Planning Department, the public, relevant public agencies and the administrative files for the Project and the Final EIR; and
- WHEREAS, The Project and EIR files have been made available for review by the Port Commission and the public, and those files are part of the record before the Port Commission; and
- WHEREAS, The Planning Department, Linda Avery, is the custodian of records, located in Case Number 2010.0493E, and those files are part of the record before this Port Commission; and
- WHEREAS, Port staff has prepared proposed findings, as required by CEQA ("CEQA Findings"), which are attached to this resolution as Attachment A, and a Mitigation Measure and Reporting Program ("MMRP"), which is attached to this resolution as Attachments B-1 to B-3; and

- WHEREAS, The CEQA Findings and the MMRP were made available to the public and the Port Commission for the Port Commission's review, consideration and action; now therefore, be it
- RESOLVED, The Port Commission has reviewed and considered the Final EIR and adopts the CEQA Findings and MMRP for the Project and incorporates those findings, including the Statement of Overriding Considerations, in this resolution by this reference; and, be it further
- RESOLVED, The Port Commission, in exercising its independent judgment, has relied upon and reviewed the information contained in the CEQA Findings, which describe the Project and Final EIR, and rejects alternatives to the Project for the reasons set forth in the CEQA Findings; and, be it further
- RESOLVED, The Port Commission adopts the CEQA Findings and the MMRP as the required mitigation measures to be implemented as part of the Project, where the Port Commission finds that all of the Mitigation Measures set forth in the Final EIR are feasible, and hereby adopts all Mitigation Measures as described in Attachments B-1 to B-3 in support of the approval of the 34th America's Cup Project, including any other actions necessary to secure BCDC and other regulatory approvals to implement the Project, construction implementation, approval of the Development and Disposition Agreement, form of Venue Lease, and related actions to implement the 34th America's Cup Project, involving use of Piers 26, 28, 30-32, 9, 19, 19½, 23, 27-29, and 29½ and adjacent water areas; water basins between Piers 32 and 38 and Piers 14 and 22½, all located along The Embarcadero waterfront; Seawall Lot 330; and a portion of Pier 80, located along the north side of Islais Creek, east of Illinois Street.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of December 16, 2011.

Secretary

ATTACHMENT B-1:

AC34 PROJECT VARIANT – MITIGATION MONITORING AND REPORTING PROGRAM

(Including the Text of the Mitigation Measures Adopted as Conditions of Approval. See Attachment 2 for Mitigation Measures Applicable to Long-Term Development)

Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
CULTURAL RESOURCES MITIGATION MEASURES				
<i>America's Cup</i>				
<p>Mitigation Measure M-CP-1b: Protection of Historic Resources due to Indirect Damage</p> <p>As described in the Project Description, the Parks Event Operations Plan will be prepared and implemented in support of the proposed project. This mitigation measure requires that this plan shall incorporate specific elements to protect cultural resources through the use of removable protective fencing, signage, area closures, pre- and post-event conditions assessments, and educational and awareness programs. Federal and state agencies would likely require these or similar measures pursuant to their mission and regulatory obligations under federal and state law. Implementation of this plan would protect historic resources due to indirect damage from event activities. The plan shall contain, at a minimum, the following measures to protect historic resources.</p> <ul style="list-style-type: none"> Fencing and Signage: The project sponsor shall protect the integrity of historic earthen fortifications and other fragile historic resources by the installation of fencing and signage. The fencing shall consist of, for example, filter fabric backed with welded mesh set into the ground. These fences should be light enough for removal between 2012 and 2013 race events, but would be obvious deterrents to visitors. The fencing shall also have signs announcing that these are sensitive historic areas and that entry is prohibited. Fencing location/length and signage type shall be determined in consultation with the appropriate land authority where indirect impacts are anticipated (e.g., National Park Service [NPS], the Presidio Trust, or California Department of Parks and Recreation [CDPR]). Area Closures: Access to certain historic sites that cannot be sufficiently protected through the use of fencing and signage shall be closed to the public during the duration of the AC34 events. The exact locations and timing of the closures are to be determined in consultation with the appropriate land authority where the indirect impacts are anticipated (e.g., NPS, the Presidio Trust, or CDPR). Pre- and Post-Event Conditions Assessment and Repair: Prior to the 2012 AC34 events, the project sponsor shall ensure that qualified cultural resources personnel assess the existing condition of the historic earthen fortifications and other fragile historic resources that could be subject to erosion from increased visitation. Standardized site assessment forms, similar to those used by the National Park Service, shall be completed for all such affected historic resources. Forms include thorough photo documentation, description, and GIS location information. The exact 	ACEA and OEWD	<p>Parks Event Operations Plan shall be completed and approved by appropriate land authority (e.g., NPS and CDPR) prior to the 2012 AC34 events.</p> <p>A completed and approved copy shall be submitted to the ERO prior to the 2012 AC34 events.</p> <p>Fencing and Signage and Area Closures: To be installed prior to 2012 AC34 events and removed after the 2012 AC34 events; then reinstalled prior to 2013 AC34 events and removed after the 2013 AC34 events.</p> <p>Pre- and Post-Event Conditions Assessment and Repair: Pre-conditions assessment prior to 2012 AC34 events; post-events assessment following completion of 2013 AC34</p>	SF Planning Department and the ERO, and appropriate land authority, including NPS and CDPR	Considered complete upon verification by SF Planning Department and ERO, and appropriate land authority, including NPS and CDPR

ACEA = America's Cup Event Authority
 ACRM = America's Cup Race Management
 BCDC = SF Bay Conservation and Development Commission
 CARB = California Air Resources Board
 CDFG = California Department of Fish and Game
 CDPR = California Department of Parks and Recreation
 CSLC = California State Lands Commission
 DBW = California Department of Boating and Waterways
 EP = San Francisco, Environmental Planning Department
 ERO = San Francisco Environmental Review Officer
 NMFS = National Marine Fisheries Service
 NPS = National Park Service
 OEWD = SF Office of Economic and Workforce Development
 Port = Port of San Francisco
 SFDPH = San Francisco Department of Public Health
 SFMTA = San Francisco Municipal Transportation Agency
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Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
CULTURAL RESOURCES MITIGATION MEASURES (cont.)				
<i>America's Cup (cont.)</i>				
<p>Mitigation Measure M-CP-1b: Protection of Historic Resources due to Indirect Damage (cont.)</p> <p>number of resources to be recorded, and the exact methods of recordation, shall be determined in consultation with the appropriate land authority where the indirect impacts are anticipated (e.g., NPS, the Presidio Trust, or CDPR). Following the 2013 AC34 event, the project sponsor shall ensure that qualified cultural resources personnel reassess the condition of historic resources identified above. Any unintended damage to historic resources as a result of the AC34 event will be repaired by the project sponsor to its pre-event condition.</p> <ul style="list-style-type: none"> • <i>Educational and Awareness Programs:</i> The project sponsor shall create an educational program that increases the public awareness of the sensitivity of historic resources during the AC34 events and encourages public participation in the protection of such resources. The exact nature of the program shall be determined in consultation with the appropriate land authority where the indirect impacts are anticipated (e.g., NPS, the Presidio Trust, or CDPR). • <i>Crowd Control:</i> The project sponsor shall ensure that crowd control personnel and volunteers are posted at or near the historic areas susceptible to erosion in order to direct visitors away from those sensitive locations. The exact number, location, and timing of the crowd control volunteers shall be determined in consultation with the appropriate land authority where the indirect impacts are anticipated (e.g., NPS, the Presidio Trust, or CDPR). 		<p>events</p> <p><i>Educational and Awareness Programs:</i> Prior to 2012 AC34 events</p> <p><i>Crowd Control:</i> During 2012 and 2013 AC34 events</p>		
<p>Mitigation Measure M-CP-1c: Protection of Historic Resources due to Direct Damage</p> <p>The project sponsors shall ensure that any plans which call for the attachment, anchoring, or bracing of temporary structural elements to existing historic buildings, structures, or objects (e.g., the stone façade of the historic Marina Seawall), are reviewed for compliance with the Secretary's Standards by a qualified architectural historian, or in the alternative, a qualified architectural historian shall develop a proposed plan for such attachments setting forth appropriate techniques to govern and guide such activities that are consistent with the Secretary's Standards (the "Temporary Structure Approach").</p>	ACEA and architectural historian	Prior to issuance of permits	Planning Department and ERO, and appropriate land authority, including SFRPD	Considered complete upon verification by Planning Department and ERO and issuance of permits

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DBW = California Department of Boating and Waterways
EP = San Francisco Environmental Planning Department
ERO = San Francisco Environmental Review Officer
NMFS = National Marine Fisheries Service
NPS = National Park Service
OEWD = SF Office of Economic and Workforce Development

Port = Port of San Francisco
SFDPH = San Francisco Department of Public Health
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SFPUC = San Francisco Public Utilities Commission
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Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
CULTURAL RESOURCES MITIGATION MEASURES (cont.)				
<i>America's Cup (cont.)</i>				
<p>Mitigation Measure M-CP-1c: Protection of Historic Resources due to Direct Damage (cont.)</p> <p>which plan will be reviewed by the Department of City Planning for consistency with the Secretary's Standards before implementation. Removal of any such attachments, anchors, or bracing shall be fully reversible and include post-removal stabilization of historic materials to prevent long-term degradation in condition. Any unintended damage to historic resources as a result of the AC34 event will be repaired by the project sponsors to its pre-event condition.</p>				
<p>Mitigation Measure M-CP-1d: Protection of the Northeast Waterfront Historic District from Teatro Zinzanni Relocation</p> <p>If Teatro Zinzanni opts to relocate to Seawall Lot 324 within the Northeast Waterfront Historic District, prior to the execution of any Port lease, Teatro Zinzanni shall present the proposed relocation project design to the Historic Preservation Commission (HPC), which shall review the proposed project and make findings that the proposed design complies with Article 10, Appendix D of the Planning Code and the Secretary's Standards. Specifically, the HPC shall make specific findings that the proposed project complies with Sections 6 and 7 of Article 10, Appendix D, incorporated here by reference, which provide additional requirements for Certificates of Appropriateness in the Northeast Waterfront Historic District. These additional requirements address the architectural and visual characteristics that define this district, including façade line continuity, fenestration and design elements for new construction, and appropriate roof treatments. If the HPC does not make these findings, the Port shall not approve the proposed lease on Seawall Lot 324.</p>	Teatro Zinzanni	Prior to the execution of Port lease for Seawall Lot 324	Port of San Francisco and Historic Preservation Commission	Considered complete upon issuance of findings by HPC and execution of lease
<p>Mitigation Measure M-CP-2: Inadvertent Discovery of Archeological Resources or Shipwrecks</p> <p>The following measures shall be implemented should construction activities result in the inadvertent discovery of a cultural resource:</p> <p>To avoid any potential adverse effect from the proposed project on inadvertently discovered buried or submerged historic resources, as defined in CEQA Guidelines Section 15064.5(a)(c), the project sponsor will distribute the Planning Department's archeological resource "ALERT" sheet to the project prime contractor; to any project</p>	ACEA	Prior to any soils-disturbing activity.	Distribution of "ALERT" sheet among contractors and crew; ACEA to provide ERO with a signed affidavit	Prior to any soils-disturbing activity. Considered complete upon ERO receipt of affidavit

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CULTURAL RESOURCES MITIGATION MEASURES (cont.)				
America's Cup (cont.)				
<p>Mitigation Measure M-CP-2: Inadvertent Discovery of Archeological Resources or Shipwrecks (cont.)</p> <p>subcontractor firms (including demolition, excavation, grading, foundation, pile driving, etc.); and/or to utilities firms involved in soil- or Bay bottom-disturbing activities within the project site. Prior to any soil- or Bay bottom-disturbing activities being undertaken, each contractor is responsible for ensuring that the ALERT sheet is circulated to all field personnel, including machine operators, field crew, pile drivers, supervisory personnel, etc. The project sponsor will provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) confirming that all field personnel have received copies of the ALERT sheet.</p> <p>In the event that any indication of a potential cultural resource is encountered during soil- or Bay bottom-disturbing activities (such as in-water pile driving for temporary berths and seismic improvements to Piers 30-32), the head foreman and/or project sponsor shall immediately notify the ERO and shall suspend soil- or Bay bottom-disturbing activities within 50 feet of the find until the ERO has determined what additional measures should be undertaken. Abandoned shipwrecks, archeological sites and historic resources in submerged lands of California are under the jurisdiction of the California State Lands Commission (CSLC). In the case of an inadvertent discovery of a submerged archeological site, shipwreck or related artifacts, the ERO shall contact and initiate consultation with the CSLC staff within 2 business days of such discovery.</p> <p>If the ERO (in consultation with the CSLC staff, if applicable) determines that an archeological resource may be present within the project site, the project sponsor shall retain the services of an archeological consultant from the pool of qualified archeological consultants maintained by the Planning Department archaeologist. In the event of a shipwreck a qualified maritime archeological consultant shall be retained. The archeological consultant will advise the ERO as to whether the discovery is an archeological resource that retains sufficient integrity and is of potential scientific/historical/cultural significance. If an archeological resource is present, the archeological consultant will identify and evaluate the archeological</p>		During any soils-disturbing activity	Notification of ERO if any archeological resources encountered	During any soils-disturbing activity. Considered complete upon notification of ERO
	ACEA and archeological consultant	Before resumption of any soils-disturbing activity (if suspended)	Archeological consultant shall advise the ERO and ERO may require additional measures, in consultation with CSLC if applicable	Prior to resumption of soils-disturbing activity. Considered complete upon ERO approval of archeological consultant's recommendations

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CULTURAL RESOURCES MITIGATION MEASURES (cont.)				
<i>America's Cup (cont.)</i>				
<p>Mitigation Measure M-CP-2: Inadvertent Discovery of Archeological Resources or Shipwrecks (cont.)</p> <p>resource. The archeological consultant will make a recommendation as to what action, if any, is warranted. Based on this information, the ERO (in consultation with the CSLC, if applicable) may require, if warranted, specific additional measures to be implemented by the project sponsor no more than forty eight (48) hours from receipt of such recommendation.</p> <p>Measures might include: preservation in situ of the archeological resource; an archeological monitoring program; or an archeological evaluation program. If an archeological monitoring or evaluation program is required, it shall be consistent with the Environmental Planning (EP) division of the Planning Department guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.</p> <p>The project archeological consultant shall submit a Final Archeological Resources Report (FARR) to the ERO (and the CSLC staff, if applicable). This report shall include an evaluation of the historical significance of any discovered archeological resource, as well as a description of the archeological and historical research methods employed in any archeological monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.</p> <p>Once approved by the ERO, copies of the FARR shall be distributed as follows: the relevant California Historical Resources Information System Information Center shall receive one (1) copy and the ERO shall receive a copy of the transmittal letter of the FARR to the Information Center. The EP and the CSLC staff (if applicable) shall receive one bound, one unbound, and one unlocked, searchable PDF copy on CD of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. The project sponsor shall receive</p>	<p>ACEA and archeological consultant</p> <p>ACEA and archeological consultant</p>	<p>Following completion of any required archaeological field program</p> <p>Following completion of FARR</p>	<p>Archeological consultant submits draft FARR to ERO for approval</p> <p>Distribute FARR. Submittal to ERO of affidavit of FARR distribution</p>	<p>Prior to issuance of final certificate of occupancy. Considered complete upon ERO approval of draft FARR</p> <p>Prior to resumption of soils-disturbing activities. Considered complete upon Planning Department receipt of FARR</p>

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CULTURAL RESOURCES MITIGATION MEASURES (cont.)				
America's Cup (cont.)				
<p>Mitigation Measure M-CP-2: Inadvertent Discovery of Archeological Resources or Shipwrecks (cont.)</p> <p>copies of the FARR in the number requested. In instances of high public interest in or the high interpretive value of the resource, the ERO or the CSLC staff may require a different final report content, format, and distribution than that presented above.</p>				
<p>Mitigation Measure M-CP-4: Inadvertent Discovery of Human Remains</p> <p>The following measures shall be implemented should construction activities result in the inadvertent discovery of human remains:</p> <p>The treatment of any human remains and associated or unassociated funerary objects discovered during soil-disturbing activities shall comply with applicable state laws. Such treatment would include immediate notification of the City and County of San Francisco Coroner. In the event of the coroner's determination that the human remains are Native American, the coroner shall notify of the Native American Heritage Commission, which would appoint a Most Likely Descendant (MLD) (PRC Section 5097.98). The archeological consultant, the project sponsor, and MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of any human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5[d]). The agreement would take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. The PRC allows 48 hours to reach agreement on these matters. If the MLD and the other parties could not agree on the rebuttal method, the project sponsor shall follow Section 5097.98(b) of the PRC, which states that "the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance."</p>	ACEA and archaeological consultant	During any soils-disturbing activity	Archeological consultant shall advise the County Coroner, MLD	Considered complete upon completion of soils-disturbing activities
Mitigation Measure M-LT-CP: Mitigation of Cultural Resources from Long-Term Development, General (see Exhibit 2)	See Exhibit 2			

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CULTURAL RESOURCES MITIGATION MEASURES (cont.)				
<i>America's Cup (cont.)</i>				
Mitigation Measure M-LT-CP-a: Mitigation of Cultural Resources from Long-Term Development, Piers 30-32 Performance Criteria (see Exhibit 2)		See Exhibit 2		
Mitigation Measure M-LT-CP-b: Mitigation of Cultural Resources from Long-Term Development, Historic Piers Performance Criteria (see Exhibit 2)		See Exhibit 2		
TRANSPORTATION AND CIRCULATION MITIGATION MEASURES				
<i>America's Cup</i>				
<p>Mitigation Measure M-TR-1: People Plan Specific Provisions</p> <p>As part of the proposed project, the City would develop and implement a People Plan consisting of a variety of interrelated programs to facilitate access by all modes to and from the AC34 event venues, while maintaining acceptable conditions for residents, commuters, businesses and visitors. To address specific impacts identified in this EIR, the programs in the People Plan shall be developed to accommodate weekday and weekend events at various levels of spectator attendance and shall include specific provisions described below. The People Plan shall include, but not be limited to, the following programs:</p> <p>M-TR-1a: Traffic Monitoring and Management Program</p> <p>As a means to reduce congestion in the vicinity of the venue sites and on access roadways to and from the sites, the City shall develop and implement a Traffic Monitoring and Management Program that could include the following measures:</p> <ul style="list-style-type: none"> • Preferred spectator routes; • Bus priority streets; • New bus lanes; • Extension of existing bus-only lanes; • Bicycle priority streets; • On-street parking restrictions; • Traffic control officer deployment; 	OEWD and SFMTA	People Plan shall be completed and approved by appropriate transportation agencies, and a completed and approved copy shall be submitted to the ERO prior to the 2012 AC34 events.	Planning Department and ERO, and SFMTA	Considered complete upon verification by Planning Department and ERO

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<i>America's Cup (cont.)</i>				
M-TR-1a: Traffic Monitoring and Management Program (cont.)				
<ul style="list-style-type: none"> Coordination with other events (e.g., ballgames; roadway construction projects); Roadway closures; Restricted access streets; Diversion plans related to roadway closures; Event signage including weekend detour signs; and Media announcements of roadway closures and detour signs. 				
M-TR-1b: Transit Operating Plan				
<p>As part of the People Plan, the City shall develop and implement a transit operating plan to provide additional transit service to accommodate peak transit demands during the AC34 project events. Elements of the plan (as developed to date) could include, but are not limited to:</p> <ul style="list-style-type: none"> Increased service hours and frequency on 30X-Marina Express, which would run every 8 minutes on all event days, including weekends. Supplemental 30L-Marina, which would run every 6 minutes in the peak direction of travel (e.g., towards the waterfront through the mid-afternoon, and from the waterfront through the evening). The service would run between the Caltrain terminal and the intersection of Beach/Broderick (via Third/Fourth, Stockton, Broadway, Van Ness, and Lombard). Supplemental 47L-Van Ness, which would run every 10 minutes in the peak direction of travel throughout the day. Service would be provided between the Civic Center BART/Muni station and North Point Street, via Van Ness Avenue. Providing the supplemental service within a temporary bus lane is currently being considered. Increased frequencies on the 108-Treasure Island, which would run every 10 minutes on all event days, including weekends. 	OEWD and SFMTA	Plan shall be completed and approved by appropriate transportation agencies, and a completed and approved copy shall be submitted to ERO prior to the 2012 AC34 events.	Planning Department and ERO, and SFMTA	Considered complete upon verification by Planning Department and ERO

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<i>America's Cup (cont.)</i>				
M-TR-1b: Transit Operating Plan (cont.)				
<ul style="list-style-type: none"> Increased frequencies on the F-Market & Wharves historic streetcar between the Ferry Building and Fisherman's Wharf (i.e., at Pier 39), which would run every 5 minutes throughout the day. New E-Embarcadero historic streetcar service between Caltrain and Pier 39. This service would need to use the double-ended historic streetcars, and would run every 20 minutes throughout the day. Supplemental Muni Metro Shuttle. This light rail vehicle service would run within the Market Street tunnel between the Embarcadero station and the West Portal station. Shuttle service would be provided every 20 minutes on weekends only. 				
M-TR-1c: Satellite Parking Facility Program				
As a means to reduce the number of vehicles traveling to and from the northern waterfront, the City shall implement satellite parking facilities and frequent transit or shuttle service between the satellite parking facilities and the various venues. Parking facilities could include existing public and private garages and lots, as well as other undeveloped parcels such as Mission Bay Lot A and Candlestick Park.	OEWD and SFMTA	Satellite Parking Facility Program shall be completed and approved by appropriate transportation agencies, and a completed and approved copy shall be submitted to ERO prior to the 2012 AC34 events.	Planning Department and ERO, and SFMTA	Considered complete upon verification by Planning Department and ERO
M-TR-1d: Public Information Program				
As a means to facilitate access to and from venues and spectator viewing areas by all modes, while encouraging the use of transit and alternate modes, the City shall develop and implement a Public Information Program. For event days that overlap with other special events, a coordinated public information program shall be developed and provided to the public. The program shall provide: <ul style="list-style-type: none"> Access information for all modes before, during and after the events; Maps and guidelines; Special signage; 	OEWD and SFMTA	Public Information Program provisions shall be completed and submitted to ERO prior to the 2012 AC34 events. Program shall begin no less than one month prior to 2012 AC34 events and repeated no less than one month prior to 2013 AC34 events	Planning Department and ERO, and SFMTA	Considered complete upon verification by Planning Department and ERO

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America's Cup (cont.)				
M-TR-1d: Public Information Program (cont.)				
<ul style="list-style-type: none"> Marketing campaign to encourage transit use and bicycle use to event sites; Web-based event information; Media and press releases to update information on a regular basis; and Public information for commuters, businesses and deliveries. 				
Mitigation Measure M-TR-17: Additional Muni Transit Service				
As part of the People Plan, the City shall develop and implement a transit operating plan to provide additional transit service to and from the Presidio, Crissy Field, and Marina venues accommodate peak transit demands on weekdays and weekends, and to and from Fisherman's Wharf on weekends. This transit service would need to be in addition to that identified in Mitigation Measure M-TR-1b.	OEWD and SFMTA	People Plan shall be completed and approved by appropriate transportation agencies, and a completed and approved copy shall be submitted to ERO prior to the 2012 AC34 events.	Planning Department and ERO, and SFMTA	Considered complete upon verification by Planning Department and ERO
Mitigation Measure M-TR-18: Additional PresidiGo Shuttle Service				
As part of the People Plan, the City shall work with the Presidio Trust, Golden Gate Transit, and SFMTA to develop and implement a transit operating plan to provide additional transit service linking Presidio destinations with Crissy Field and downtown regional service providers. Additional PresidiGo service could be provided by implementing PresidiGo on weekend days, and by providing an additional PresidiGo shuttle service between the Lombard Gate (near the terminus of the 41-Union and 45-Union-Stockton Muni bus lines) and Crissy Field on weekend days.	OEWD and SFMTA	People Plan shall be completed and approved by appropriate transportation agencies, and a completed and approved copy shall be submitted to ERO prior to the 2012 AC34 events.	Planning Department and ERO, and SFMTA	Considered complete upon verification by Planning Department and ERO
Mitigation Measure M-TR-19: Additional AC Transit Capacity				
As part of the People Plan, the City shall work with AC Transit and other regional transit providers (i.e., BART, WETA) to develop and implement an operating plan that would accommodate peak transit demands during the AC34 project events to and from the East Bay.	OEWD and SFMTA	People Plan shall be completed and approved by appropriate transportation agencies, and a completed and approved copy shall be submitted to ERO prior to the 2012 AC34 events.	Planning Department and ERO, and SFMTA	Considered complete upon verification by Planning Department and ERO

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TRANSPORTATION AND CIRCULATION MITIGATION MEASURES (cont.)				
America's Cup (cont.)				
<p>Mitigation Measure M-TR-19: Additional AC Transit Capacity (cont.)</p> <p>While the analysis above describes the capacity shortfall during the Saturday midday peak hour, additional capacity would need to be provided throughout the day as well as on Sundays. It is likely that the span of additional service would be from approximately 10:00 a.m. to 8:00 p.m. with varied levels of service throughout that time period. The additional AC Transit service could be provided by, but not be limited to, the following supplemental lines.</p> <ul style="list-style-type: none"><i>The Berkeley (F) Route:</i> This route provides service generally from UC Berkeley to the Temporary Transbay Terminal through Ashby BART and Emeryville.<i>The Oakland (NL) Route:</i> This route provides service generally from Mills College to the Temporary Transbay Terminal through MacArthur Boulevard and West Grand Avenue.<i>Alameda (O) Route:</i> This route provides service generally from Fruitvale to the Temporary Transbay Terminal through Alameda.<i>Treasure Island Route:</i> This route would provide service generally from one of the BART Stations (MacArthur or West Oakland) to Treasure Island.<i>Crissy Field Route:</i> This route would provide service generally from the East Bay to Crissy Field without requiring East Bay passengers to transfer at the Temporary Transbay Terminal to Muni. <p>The supplemental routes described above are intended to illustrate the type and alignment of additional service that could be provided during the AC34 2012 events. However, the People Plan is expected to develop a transit operating plan that would formalize the details of the additional service (specific routes, span of service, days of service, headways, types of buses, etc.) and could include different routes, service providers, or service schedules than what is described above. This would allow for the flexibility to adjust service in response to demand during the AC34 2012 events and ultimately during the AC34 2013 events.</p>				

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America's Cup (cont.)				
<p>Mitigation Measure M-TR-20: Additional BART Transit Service</p> <p>As part of the People Plan, the City shall work with BART and other regional transit providers (i.e., AC Transit, WETA) to develop and implement an operating plan that would accommodate peak transit demands during the AC34 events to and from the East Bay and South Bay.</p> <p>While the analysis above describes the capacity shortfall during the Saturday midday peak hour, additional capacity would need to be provided throughout the day as well as on Sundays. It is likely that the span of additional service would be from approximately 10:00 a.m. to 8:00 p.m. with varied levels of service throughout that time period. The additional East Bay BART service could be provided by, but not limited to, executing weekday service during the weekends or by operating longer trains. The People Plan is expected to develop a transit operating plan that would formalize the details of the additional service (span of service, days of service, headways, etc.) and could include a different arrangement than providing weekday service on weekends.</p>	OEWD and SFMTA	Plan shall be completed and approved by appropriate transportation agencies, and a completed and approved copy shall be submitted to ERO prior to the 2012 AC34 events.	Planning Department and ERO, and SFMTA	Considered complete upon verification by Planning Department and ERO
<p>Mitigation Measure M-TR-21: Additional WETA Transit Service</p> <p>As part of the People Plan, the City shall work with WETA and other regional transit providers (i.e., BART, AC Transit) to develop and implement an operating plan that would accommodate peak transit demands during the AC34 events to and from the East Bay.</p> <p>While the analysis above describes the capacity shortfall during the Saturday midday peak hour, additional capacity would need to be provided throughout the day as well as on Sundays. It is likely that the span of additional service would be from approximately 10:00 a.m. to 8:00 p.m. with varied levels of service throughout that time period. The additional WETA ferry service could be provided by, but not be limited to, the following supplemental lines.</p> <ul style="list-style-type: none"> Vallejo Baylink Service: This service operates from the terminal at the Vallejo waterfront west of downtown directly to the San Francisco Ferry Building and to Pier 41 in Fisherman's Wharf. One additional vessel with a capacity for 300 passengers could be added to the existing weekend service. 	OEWD and SFMTA	Plan shall be completed and approved by appropriate transportation agencies, and a completed and approved copy shall be submitted to ERO prior to the 2012 AC34 events.	Planning Department and ERO, and SFMTA	Considered complete upon verification by Planning Department and ERO

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America's Cup (cont.)				
Mitigation Measure M-TR-21: Additional WETA Transit Service (cont.)				
<ul style="list-style-type: none"> <i>Alameda/Oakland Bay Service (AOFBS):</i> This service operates from Main Street in Alameda and from Clay Street in Oakland to the San Francisco Ferry Building and to Pier 41 in Fisherman's Wharf. One additional vessel with a capacity of approximately 325 to 375 passengers could be added to the existing weekend service. Additional midday off-peak service could also be provided between the Ferry Building and/or Piers 39-41, if there is sufficient capacity to berth the ferries. <p>The supplemental routes described above are intended to illustrate the type and alignment of additional service that could be provided during the AC34 2012 events. However, the People Plan is expected to develop a transit operating plan that would formalize the details of the additional service (specific routes, span of service, days of service, headways, types of ferries, etc.) and could include different routes or service schedules than what is described above. This would allow for the flexibility to adjust service in response to demand during the AC34 2012 events and ultimately during the AC34 2013 events.</p>				
Mitigation Measure M-TR-22: Additional Golden Gate Transit Service				
<p>As part of the People Plan, the City shall work with Golden Gate Transit and other regional transit providers (i.e., WETA) to develop and implement an operating plan that would accommodate peak transit demands during the AC34 events to and from the North Bay.</p> <p>While the analysis above describes the capacity shortfall during the Saturday midday peak hour, additional capacity would need to be provided throughout the day as well as on Sundays. It is likely that the span of additional service would be from approximately 10:00 a.m. to 8:00 p.m. with varied levels of service throughout that time period. The additional Golden Gate Transit bus service may be able to pick up local passengers within San Francisco at existing Golden Gate Transit and Muni bus stops. The bus service could be provided by, but not be limited to, the following supplemental lines.</p> <ul style="list-style-type: none"> <i>Route 93:</i> This route would begin at the Golden Gate Bridge Toll Plaza and continue to the San Francisco Civic Center area via Lombard, Van Ness, Golden Gate, Hyde, Eighth, and Mission Streets to Sixth and Howard Streets in the outbound direction, 	OEWD and SFMTA	Plan shall be completed and approved by appropriate transportation agencies, and a completed and approved copy shall be submitted to ERO prior to the 2012 AC34 events.	Planning Department and ERO, and SFMTA	Considered complete upon verification by Planning Department and ERO

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TRANSPORTATION AND CIRCULATION MITIGATION MEASURES (cont.)				
America's Cup (cont.)				
<p>Mitigation Measure M-TR-22: Additional Golden Gate Transit Service (cont.)</p> <p>and via Seventh, McAllister, Van Ness, and Lombard to the Golden Gate Bridge Toll Plaza in the inbound direction. A variation of this route could terminate at the Richardson/Francisco transfer point rather than at the Golden Gate Bridge Toll Plaza, provided sufficient turn-around space is available.</p> <ul style="list-style-type: none"> Route 4: To supplement Route 93, a "short" Route 4 could operate between the Manzanita Park & Ride in Mill Valley to the Financial District. This route would travel on U.S. 101 through the Golden Gate Bridge Toll Plaza and continue to the San Francisco Financial District via Lombard, Van Ness, North Point, Polk, Beach, Embarcadero, and Battery, across Market Street to Howard, Eight and Harrison Streets in the inbound direction, and via Harrison, Ninth, Folsom, Fremont, Front, Pine, Sansome, The Embarcadero, North Point, Van Ness and Lombard to the Manzanita Park & Ride in the inbound direction. <p>The supplemental routes described above are intended to illustrate the type and alignment of additional service that could be provided during the AC34 2012 events. However, the People Plan is expected to develop a transit operating plan that would formalize the details of the additional service (specific routes, span of service, days of service, headways, types of buses, etc.) and could include different routes than what is described above. This would allow for the flexibility to adjust service in response to demand during the AC34 2012 events and ultimately during the AC34 2013 events.</p>				
<p>Mitigation Measure M-TR-23: Additional Blue & Gold Transit Service</p> <p>As part of the People Plan, the City shall work with Blue & Gold and other regional transit providers (i.e., Golden Gate Transit) to develop and implement an operating plan that would accommodate peak transit demands during the AC34 events to and from the North Bay.</p> <p>While the analysis above describes the capacity shortfall during the Saturday midday peak hour, additional capacity would need to be provided by Blue & Gold and/or Golden Gate Transit ferry and bus service throughout the day, as well as on Sundays. It is likely that the</p>	OEWD and SFMTA	Plan shall be completed and approved by appropriate transportation agencies, and a completed and approved copy shall be submitted to ERO prior to the 2012 AC34 events.	Planning Department and ERO, and SFMTA	Considered complete upon verification by Planning Department and ERO

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TRANSPORTATION AND CIRCULATION MITIGATION MEASURES (cont.)				
America's Cup (cont.)				
Mitigation Measure M-TR-23: Additional Blue & Gold Transit Service (cont.) span of additional service would be from approximately 10:00 a.m. to 8:00 p.m. with varied levels of service throughout that time period. Blue & Gold currently provides additional ferry service during special events – for example, additional evening service from Tiburon to San Francisco for the Fourth of July fireworks show. Similar additional service could be provided during the AC34 2012 events.				
Mitigation Measure M-TR-24: Additional Caltrain Transit Service As part of the People Plan, the City shall work with Caltrain and other regional transit providers (i.e., BART, SamTrans) to develop and implement an operating plan that would accommodate peak transit demands during the AC34 events to and from the South Bay. While the analysis above describes the capacity shortfall during the Saturday midday peak hour, additional capacity would need to be provided throughout the day as well as on Sundays. It is likely that the span of additional service would be from approximately 10:00 a.m. to 8:00 p.m. with varied levels of service throughout that time period. The People Plan is expected to develop a transit operating plan that would formalize the details of the additional service (span of service, days of service, headways, stop locations, etc.), if any. This would allow for the flexibility to adjust service in response to demand during the AC34 2012 events, and ultimately during the AC34 2013 events.	OEWD and SFMTA	Plan shall be completed and approved by appropriate transportation agencies, and a completed and approved copy shall be submitted to ERO prior to the 2012 AC34 events.	Planning Department and ERO, and SFMTA	Considered complete upon verification by Planning Department and ERO
Mitigation Measure M-TR-25: Additional SamTrans Transit Service As part of the People Plan, the City shall work with SamTrans and other regional transit providers (i.e., BART, Caltrain) to develop an operating plan that would accommodate peak transit demands during the AC34 events to and from the South Bay. While the analysis above describes the capacity shortfall during the Saturday midday peak hour, additional capacity would need to be provided throughout the day as well as on Sundays. It is likely that the span of additional service would be from approximately 10:00 a.m. to 8:00 p.m. with varied levels of service throughout that time period. Whether the additional service could be provided by SamTrans is uncertain. However, additional service from and to the South Bay could be provided by, but not be limited to the following:	OEWD and SFMTA	Plan shall be completed and approved by appropriate transportation agencies, and a completed and approved copy shall be submitted to ERO prior to the 2012 AC34 events.	Planning Department and ERO, and SFMTA	Considered complete upon verification by Planning Department and ERO

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TRANSPORTATION AND CIRCULATION MITIGATION MEASURES (cont.)				
America's Cup (cont.)				
<p>Mitigation Measure M-TR-25: Additional SanTrans Transit Service (cont.)</p> <ul style="list-style-type: none"> <i>Supplemental BART Service:</i> BART could increase its service to and from the South Bay by providing service similar to that seen on weekdays or by operating longer trains (10 cars per train) to increase the capacity of the existing weekend service. <p>The People Plan is expected to develop a transit operating plan that would formalize the details of the additional service (span of service, days of service, headways, stop locations, etc.) and could include a different arrangement than providing described above. This would allow for the flexibility to adjust service in response to demand during the AC34 2012 events and ultimately during the AC34 2013 events.</p>				
<p>Mitigation Measure M-TR-26a: Barricade to Protect Transit Lanes</p> <p>The AC34 2012 events have the potential to adversely impact the operations of the F-Market & Wharves line in the Fisherman Wharf area, particularly on Jefferson Street. As part of the People Plan, the City shall create a strategy for protecting the F-Market & Wharves right-of-way for safety and operational efficiency (i.e., to ensure delay to streetcar service is minimized. The strategy could include, but not be limited to, erecting removable barricades along the F-Market & Wharves tracks in order to contain pedestrian overflow and direct crossings to existing crosswalks.</p>	OEWD and SFMTA	Plan shall be completed and approved by appropriate transportation agencies, and a completed and approved copy shall be submitted to ERO prior to the 2012 AC34 events.	Planning Department and ERO, and SFMTA	Considered complete upon verification by Planning Department and ERO
<p>Mitigation Measure M-TR-26b: Traffic Control Officers at Key Intersections</p> <p>The AC34 2012 events have the potential to adversely impact the operations of Muni, Golden Gate Transit, and AC Transit service in downtown San Francisco. As part of the People Plan, the City shall develop a strategy for implementation of traffic control officers at intersections that key transit routes travel through.</p>	OEWD and SFMTA	Plan shall be completed and approved by appropriate transportation agencies, and a completed and approved copy shall be submitted to ERO prior to the 2012 AC34 events.	Planning Department and ERO, and SFMTA	Considered complete upon verification by Planning Department and ERO
<p>Mitigation Measure M-LT-TR: Transportation Mitigation Measures for Long-Term Development (see Exhibit 2)</p>	See Exhibit 2			

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NOISE AND VIBRATION MITIGATION MEASURES				
<i>America's Cup</i>				
<p>Mitigation Measure M-NO-1a: Noise Controls During Construction</p> <p>The following practices shall be incorporated into the construction contract agreement documents to be implemented by the construction contractor:</p> <ul style="list-style-type: none"> • Provide enclosures and mufflers for stationary equipment, shroud or shield impact tools, and install barriers around particularly noisy activities at the construction sites so that the line of sight between the construction activities and nearby sensitive receptor locations is blocked; • Use construction equipment with lower noise emission ratings whenever possible, particularly for air compressors; • Provide sound-control devices on equipment no less effective than those provided by the manufacturer; • Locate stationary equipment, material stockpiles, and vehicle staging areas as far as practicable from sensitive receptor locations; • Prohibit unnecessary idling of internal combustion engines; and <p>Require applicable construction-related vehicles and equipment to use designated truck routes to travel to and from the project sites.</p>	ACEA and construction contractor	Construction specifications showing adherence to measure shall be submitted to ERO prior to commencement of activities. Measures shall be implemented during construction.	Port, Planning Department and ERO	Following completion of all construction activities
<p>Mitigation Measure M-NO-1b: Pile Driving Noise-Reducing Techniques and Muffling Devices</p> <p>The AC34 project sponsors shall require the construction contractor to use noise-reducing pile-driving techniques if nearby structures are subject to pile-driving noise and vibration. These techniques shall include installing intake and exhaust mufflers on pile-driving equipment, vibrating piles into place when feasible, and installing shrouds around the pile-driving hammer where feasible.</p> <p>Construction contractors shall be required to use construction equipment with state-of-the-art noise shielding and muffling devices. In addition, at least 48 hours prior to pile-driving activities, the project sponsors shall notify building owners and occupants within 500 feet of the project site of the dates, hours, and expected duration of such activities.</p>	ACEA and construction contractor	Construction specifications showing adherence to measure shall be submitted to ERO prior to commencement of activities. Measures shall be implemented during pile-driving.	Port, Planning Department and ERO	Following completion of all pile-driving activities

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NOISE AND VIBRATION MITIGATION MEASURES (cont.)				
<i>America's Cup (cont.)</i>				
<p>Mitigation Measure M-NO-1b: Pile Driving Noise-Reducing Techniques and Muffling Devices (cont.)</p> <p>In addition, implementation of this measure shall be coordinated with Mitigation Measure M-BI-11a (Impact Hammer Pile Driving Noise Reduction for Protection of Fish) (see Section 5.14, Biological Resources), which requires the AC34 project sponsors to develop a sound attenuation monitoring plan to reduce noise impacts to aquatic wildlife. This plan shall incorporate best management practices to reduce noise, such as use of cushion blocks between the hammerhead and concrete piles to reduce vibration, use of vibratory drivers for the installation and removal of all steel pilings, and employment of a "soft start" technique to all pile driving to give fish and marine mammals an opportunity to vacate the area. Vibratory hammers shall be used to the maximum extent practicable.</p>				
<p>Mitigation Measure M-NO-2a: Selection, Shielding or Acoustical Enclosures for Generators at Piers 27-29 and Marina Green and Use of Electrical Service at Piers 27-29</p> <p>At Piers 27-29, the AC34 project sponsor shall use utility electricity in lieu of generators, if available; if electricity requirements exceed available power, the AC34 project sponsor shall use generators. The AC34 project sponsor shall provide shielding or acoustical enclosures for generators at Piers 27-29 and the Marina Green. Specification sheets for generators indicate that Level 1 sound enclosures will dampen noise levels by 5 dBA for the size of generators proposed. Additionally, the project sponsor shall achieve a performance standard of 60 dBA at the Crissy Field Center when educational activities are in progress.</p>	ACEA and construction contractor	Generator specifications showing adherence to measure shall be submitted to ERO prior to commencement of activities.	Port, SFRPD, Planning Department and ERO	Following completion of all AC34 events
<p>Mitigation Measure M-NO-2b: Noise Control Plan for Entertainment Venues</p> <p>The AC34 project sponsors shall develop and implement a Noise Control Plan for operations at the proposed entertainment venues to reduce the severity of potential noise impacts from public address and/or amplified music. This Noise Control Plan shall contain the following elements:</p> <ul style="list-style-type: none"> The project sponsor shall comply with noise controls and restrictions in applicable entertainment permit requirements for designated AC34 events. 	ACEA	Noise Control Plan should be approved by San Francisco Entertainment Commission and submitted to ERO by June 2012. Plan provisions shall be implemented during AC34 events.	Planning Department and ERO, and San Francisco Entertainment Commission, NPS, and SFRPD on lands within their respective jurisdictions	Following completion of all AC34 events

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NOISE AND VIBRATION MITIGATION MEASURES (cont.)				
<i>America's Cup (cont.)</i>				
<p>Mitigation Measure M-NO-2b: Noise Control Plan for Entertainment Venues (cont.)</p> <p>Where not otherwise addressed in City permits, amplification levels generally shall be established commensurate with the City's fixed residential interior noise limits of 50 dBA daytime (7:00 a.m. to 10:00 p.m.) and 45 dBA nighttime (10:00 p.m. to 7:00 a.m.). Volume settings at each entertainment venue shall be identified during the first week of events using noise monitoring at the nearest residences of concern, performed by a qualified acoustical technician in association with the project sponsors. No building attenuation shall be assumed for residences that would not be expected to have mechanical ventilation systems.</p> <ul style="list-style-type: none"> Speaker systems shall be directed toward the Bay, away from the nearest sensitive receptors to the degree feasible. A point of contact shall be designated by the project sponsors to respond to noise complaints and to ensure compliance with the first two measures above. This person shall work with the San Francisco Entertainment Commission to establish set-up and operational conditions appropriate to each of the venues with regard to compliance with requirements of Section 47.2 of the San Francisco Police Code. 				
<p>Mitigation Measure M-NO-3: Pre-Construction Assessment to Minimize Structural Pile-Driving Vibration Impacts on Adjacent Historic Buildings and Structures and Vibration Monitoring</p> <p>The project sponsors shall engage a qualified geotechnical engineer to conduct a pre-construction assessment of existing subsurface conditions and the structural integrity of nearby historic structures subject to pile-driving activity in the vicinity of Piers 28, Piers 30-32, Red's Java House, and Bulkhead Wharf Section 10 before a Port Building Permit is issued. If recommended by the pre-construction assessment, for structures or facilities within 60 feet of pile-driving activities, the project sponsors shall require groundborne vibration monitoring of nearby historic structures. Such methods and technologies shall be based on the specific conditions at the construction site such as, but not limited to, the pre-construction surveying of potentially affected historic structures and underpinning of foundations of potentially affected structures, as necessary.</p>	ACEA and geotechnical engineer	Assessment shall be completed and submitted to Port Engineer and Planning Department ERO prior to pile-driving. Monitoring shall occur during pile-driving	Port of San Francisco Chief Harbor Engineer; Planning Department and ERO	Following completion of all pile-driving activities

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<i>America's Cup (cont.)</i>				
<p>Mitigation Measure M-NO-3: Pre-Construction Assessment to Minimize Structural Pile-Driving Vibration Impacts on Adjacent Historic Buildings and Structures and Vibration Monitoring (cont.)</p> <p>The pre-construction assessment shall include a monitoring program to detect ground settlement or lateral movement of structures in the vicinity of pile-driving activities. Monitoring results shall be submitted to the Port's Chief Harbor Engineer. In the event of unacceptable ground movement with the potential to cause structural damage, as determined by the Chief Harbor Engineer, all impact work shall cease and corrective measures shall be implemented to minimize the risk to the subject, or adjacent, historic structure.</p>				
<p>Mitigation Measure M-LT-NOa: Mitigation of Noise from Long-Term Development on Port Properties (see Exhibit 2)</p>		See Exhibit 2		
<p>Mitigation Measure M-LT-NOb: Mitigation of Interior and Exterior Noise from New Residential Developments of Seawall Lot 330 (see Exhibit 2)</p>		See Exhibit 2		
AIR QUALITY				
<i>America's Cup</i>				
<p>Mitigation Measure M-AQ-2a: Construction Vehicle Emissions Minimization</p> <p>To reduce construction vehicle emissions, the project sponsor shall incorporate the following into construction specifications:</p> <ul style="list-style-type: none"> Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure, Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. 	ACEA and construction contractor	Manufacturing specifications shall be submitted to ERO prior to construction. Certified mechanic shall check equipment prior to, and during, demolition and construction activities and submit affidavit to ERO.	Planning Department and ERO; Port and SFRPD for properties within their respective jurisdictions	Following completion of all construction and demolition activities

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AIR QUALITY (cont.)				
America's Cup (cont.)				
Mitigation Measure M-AQ-2a: Construction Vehicle Emissions Minimization (cont.) <ul style="list-style-type: none"> The project sponsor shall ensure that construction contract specifications include a requirement that on-road diesel trucks used to transport spoils consist of 2007 or newer model-year trucks with factory-built engines. All on-road diesel trucks shall be required to have emission control labels as specified in 13 CCR 2183(c). The construction contract specifications shall require that the contractor submit to the Environmental Review Officer (ERO) a comprehensive inventory of all on-road trucks used to haul spoils. The inventory shall include each vehicle's license plate number, the engine production year, and a notation of whether the truck is in possession of an emission control label as defined in 13 CCR. The contractor shall update the inventory and submit it monthly to the ERO throughout the duration of the project. 				
Mitigation Measure M-AQ-2b: Off-Road Construction Equipment <p>The project sponsors shall ensure that construction contract specifications include a requirement that all off-road construction equipment be equipped with diesel engines meeting USEPA Tier 3 standards for NOx and PM (Tier 2 standards if greater than 750 hp) or better. The following types of equipment¹ were identified as available for rental in Tier 3 models, or are candidates for retrofitting with emissions control technology, due to their expected operating modes (i.e., fairly constant use at high revolution per minute):</p> <ul style="list-style-type: none"> Excavators Backhoes Rubber-Tired Dozers Concrete Boom Pumps Concrete Trailer Pumps Concrete Placing Booms Compressors 	ACEA and construction contractor	Contract specifications shall be submitted to Planning Department and ERO prior to construction and demolition. Equipment shall be used during demolition and construction activities	Planning Department and ERO; Port and SFRPD for properties within their respective jurisdictions	Following completion of all construction and demolition activities

¹ <http://tier3rental.com/>

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AIR QUALITY (cont.)				
America's Cup (cont.)				
<p>Mitigation Measure M-AQ-2b: Off-Road Construction Equipment (cont.)</p> <ul style="list-style-type: none"> • Soil Mix Drill Rigs • Soldier Pile Rigs • Shoring Drill Rigs <p>At construction locations where power demands allow it, propane generators shall be used in lieu of diesel powered generators. Diesel generators used for project construction shall meet Tier 4 emissions standards.</p> <p>In addition to the Tier 3 emissions standard requirement, all equipment must be equipped with a CARB Level 3 Verified Diesel Emission Control System (VDECS) for PM control, where feasible. The construction contractor shall provide proof in the form of a manufacturer's engineering evaluation or other proof to the satisfaction of the Environmental Review Officer that a CARB-verified Level 3 VDECS is not feasible for a particular equipment type.</p> <p>Should it be determined by the construction contractor or its subcontractors that compliance with the emissions control requirements of this mitigation measure is infeasible for any of the above-listed construction equipment, the construction contractor shall demonstrate an alternative method of compliance that achieves an equivalent reduction in the project's fleetwide NOx and PM emissions. If alternative means of compliance with the emissions exhaust requirements are further determined to be infeasible, the construction contractor shall document, to the satisfaction of the Environmental Review Officer, that the contractor has complied with this mitigation measure.</p>	ACEA and construction contractor	Contract specifications shall be submitted to Planning Department and ERO prior to construction and demolition. Equipment shall be used during demolition and construction activities	Planning Department and ERO; Port and SFRPD for properties within their respective jurisdictions	Following completion of all construction and demolition activities
<p>Mitigation Measure M-AQ-2c: Off-Road Construction Equipment - Electricity Use</p> <p>Hydropower electricity supplied by a public utility shall be used where available at pier construction sites in lieu of temporary diesel or gasoline-powered generators and compressors. Existing utility service or temporary new utility service shall be the preferred power alternative, unless proven infeasible at each location where generators are proposed.</p>	ACEA and construction contractor	Contract specifications shall be submitted to Planning Department and ERO prior to construction and demolition.	Port, Planning Department and ERO	Following completion of all construction and demolition activities

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AIR QUALITY (cont.)				
America's Cup (cont.)				
<p>Mitigation Measure M-AQ-2d: Off-Road Construction Equipment - Best Management Practices (BMPs)</p> <p>The following types of measures are required on construction equipment:</p> <ol style="list-style-type: none"> 1. Use of CARB-verified diesel oxidation catalysts and catalyzed diesel particulate traps if not already included in the design of the equipment to meet Tier 3 standards, or not already required as part of Mitigation Measure M-AQ-2b above. 2. Install high-pressure fuel injectors on construction equipment vehicles. 3. Provide on-site services to minimize truck traffic in or near residential areas, including, but not limited to, the following services: meal or cafeteria services, automated teller machines, etc. <p>The Port shall implement a process by which to select additional BMPs to further reduce air emissions during construction. The Port shall determine the BMPs once the contractor identifies and secures a final equipment list.</p>	ACEA, Port, and construction contractor	Contract specifications shall be submitted to Planning Department and ERO prior to construction and demolition. Equipment shall be used during demolition and construction activities	Planning Department and ERO	Following completion of all construction and demolition activities
<p>Mitigation Measure M-AQ-2e: Off-Road Construction Equipment - Engine Standards for Harbor Craft Used in Construction</p> <p>All harbor craft with C1 or C2 marine engines used in construction must utilize a USEPA Tier-3 engine, or cleaner, if feasible.</p> <p>Should it be determined by the construction contractor or its subcontractors that compliance with the emissions control requirements of this mitigation measure is infeasible for any of the harbor craft used in construction, the construction contractor shall demonstrate an alternative method of compliance that achieves an equivalent reduction in the project's fleetwide NOx emissions. If alternative means of compliance with the emissions exhaust requirements are further determined to be infeasible, the construction contractor shall document, to the satisfaction of the Environmental Review Officer, that the contractor has complied with this mitigation measure to the extent feasible and indicate why full compliance with the mitigation measure is infeasible.</p>	ACEA and construction contractor	Contract specifications shall be submitted to Planning Department and ERO prior to construction and demolition. Equipment shall be used during demolition and construction activities	Planning Department and ERO; Port and SFRPD for properties within their respective jurisdictions	Following completion of all construction and demolition activities

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AIR QUALITY (cont.)				
<i>America's Cup (cont.)</i>				
Mitigation Measure M-AQ-2f: Fuels for Off-Road Construction Equipment The project sponsors shall ensure that construction contract specifications include a requirement that all off-road construction equipment used be fueled with propane or biodiesel (B20 blended with California on-road diesel) unless precluded by engine type or warranty.	ACEA and construction contractor	Contract specifications shall be submitted to Planning Department and ERO prior to construction and demolition.	Planning Department and ERO; Port and SFRPD for properties within their respective jurisdictions	Following completion of all construction and demolition activities
Mitigation Measure M-AQ-4a: Emission Controls for Race-Sponsored Spectator and Support Vessels The project sponsor shall require all contracts for race-sponsored spectator vessels and venue leases for race support vessels to meet U.S. EPA Tier 3 or better engine standards for marine diesel engines, as feasible. Tier 3 and Tier 4 engines would reduce ROG and NOx emissions by approximately 42 percent over Tier 1 engines and PM emissions by 78 percent over Tier 1 engine emissions. ² Should it be determined by the project sponsor that availability of vessels with Tier 3 or Tier 4 engines for use as race-sponsored spectator vessels renders this mitigation measure infeasible, this lack of availability must be demonstrated, to the satisfaction of the Environmental Review Officer, indicating that the project sponsor has complied with this mitigation measure to the extent feasible and why full compliance with the mitigation measure is infeasible.	ACEA, ACRM, and spectator vessel contractors	Vessels specifications detailing adherence to measure shall be submitted to ERO prior to 2012 AC34 events. Vessels meeting these standards shall be used during spectator vessel activities	Planning Department and ERO; Port and SFRPD for properties within their respective jurisdictions	Following completion of all AC34 events
Mitigation Measure M-AQ-4b: Temporary Shoreside Power for Large Private Yachts at Pier 27 The project sponsor shall install shoreside electrical power at Pier 27 to serve large, private spectator vessels during the AC34 2013 events. Shoreside power shall be supplied by a publicly owned utility supplying hydropower, if available at rates and service levels equivalent to a private utility.	ACEA	Shoreside power to serve large private yachts at Pier 27 shall be installed prior to the AC34 2013 events. Berthing contracts detailing adherence to measure shall be submitted to ERO prior to 2013 AC34 events.	Port, Planning Department and ERO	Following completion of all AC34 events

² California Air Resources Board, Airborne Toxic Control Measure for Diesel Engines on Commercial Harborcraft Operated within California Waters and 24 Nautical Miles of the California Baseline, <http://www.arb.ca.gov/regact/2007/chc07/rev93118.pdf>

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AIR QUALITY (cont.)				
America's Cup (cont.)				
<p>Mitigation Measure M-AQ-4b: Temporary Shoreside Power for Large Private Yachts at Pier 27 (cont.)</p> <p>If shoreside power is available at berths used by large, private spectator vessels, the project sponsor shall impose as a requirement in any berthing contract with large, private spectator vessels a requirement to use shoreside power, if such vessels are so equipped.</p>				
<p>Mitigation Measure M-AQ-4c: Alternative Low-Emissions Fuels for Large Private Yachts and Race-Sponsored Vessels</p> <p>The project sponsor shall impose as a requirement in any berthing contract with large, private spectator vessels and in any contract with race-sponsored vessels, a requirement to use B20 biodiesel or higher, unless precluded by engine type or warranty, or availability. If biodiesel is precluded, such contracts shall require use of California on-road diesel.</p> <p>Should it be determined by the project sponsor that availability or compatibility of biodiesel with vessel engines or warranties renders this mitigation measure infeasible, this lack of availability or compatibility must be demonstrated, to the satisfaction of the Environmental Review Officer, indicating that the project sponsor has complied with this mitigation measure to the extent feasible and why full compliance with the mitigation measure is infeasible.</p>	ACEA	Berthing contracts detailing adherence to measure shall be submitted to ERO prior to 2013 AC34 events.	Port, Planning Department and ERO	Following completion of all AC34 events
<p>Mitigation Measure M-AQ-4d: Return Pier 27 to the Port Within One Month after Completion of the Match for Reconnection of Shoreside Power</p> <p>The project sponsor shall reconnect shoreside power and complete Phase 2 construction of the James R. Herman Cruise Terminal and reconnection of shoreside power at Pier 27 not later than April 1, 2014, if feasible. To accommodate construction of Phase 2 improvements to the Cruise Terminal and reconnection of shoreside power, the Event Authority shall return Pier 27 to the Port within one month of the completion of the Match.</p> <p>Subsequently, the Port shall complete Phase 2 construction of the James R. Herman Cruise Terminal in 2013 to 2014 and reconnect shoreside power at Pier 27 no later than April 1, 2014, if feasible.</p>	ACEA and Port	Following completion of the America's Cup Events in 2013 and prior to April 1, 2014	Planning Department and ERO	April 1, 2014 or earlier

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AIR QUALITY (cont.)				
America's Cup (cont.)				
<p>Mitigation Measure M-AQ-4d: Return Pier 27 to the Port Within One Month after Completion of the Match for Reconnection of Shoreside Power (cont.)</p> <p>Should it be determined by the project sponsor that Phase 2 construction of the James R. Herman Cruise Terminal and reconnection of shoreside power at Pier 27 by April 1, 2014 is infeasible, the project sponsor shall document, to the satisfaction of the Environmental Review Officer, that the project sponsor has complied with this mitigation measure to the extent feasible and indicate why full compliance with the mitigation measure is infeasible.</p>				
<p>Mitigation Measure M-AQ-4e: Long-term Shoreside Power at Pier 70</p> <p>The project sponsor shall develop shoreside power at an offsite location that would consist of constructing 12 MW of shoreside power at the Port's Drydock #2 at Pier 70 to serve large cruise, military and other vessels while they are in drydock.</p> <p>Should it be determined by the project sponsor that this measure is infeasible, the project sponsor shall document, to the satisfaction of the Environmental Review Officer, that the project sponsor has complied with this mitigation measure to the extent feasible and indicate why full compliance with the mitigation measure is infeasible.</p>	Port and SFPUC	Prior to decommissioning of shoreside power at Piers 27-29 in 2012	Planning Department and ERO	To be in operation during 2012 and 2013; however, this shall be a long-term ongoing measure.
<p>Mitigation Measure M-AQ-5: Clean Diesel Engines for Temporary Power</p> <p>The project sponsor shall ensure that all diesel generators at AC34 event and viewing locations will conform to a level of performance equivalent to a Tier 4 interim, or Tier 2/Tier 3 (as applicable, depending on power rating) engine fitted with a Level 3 Verified Diesel Emissions Control (VDEC), which would reduce diesel particulate emissions by at least 85 percent. Alternatively, natural gas or gasoline-powered generators may be used in lieu of diesel generators, thus eliminating DPM emissions from generators, as feasible.</p> <p>Should it be determined by the project sponsor that "tiered" diesel engine generators or natural gas or gasoline-powered generators would not provide the necessary power</p>	ACEA and contractors	Generator specifications detailing adherence to measure shall be submitted to ERO prior to 2012 events. Vessels meeting these standards shall be used during spectator vessel activities	Port, Planning Department and ERO	Following completion of all AC34 events

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AIR QUALITY (cont.)				
<i>America's Cup (cont.)</i>				
Mitigation Measure M-AQ-5: Clean Diesel Engines for Temporary Power (cont.) demands required, this lack of availability must be demonstrated to the satisfaction of the Environmental Review Officer, indicating that the project sponsor has complied with this mitigation measure to the extent feasible and why full compliance with the mitigation measure is infeasible.				
Mitigation Measure M-LT-AQ: Future Long-Term Development Mitigation (see Exhibit 2)		See Exhibit 2		
WIND AND SHADOW				
<i>America's Cup</i>				
Mitigation Measure M-WL-1: Warning Signs and/or Limiting Access on the Eastern Aprons of Piers 27-29 During Hazardous Wind Events The project sponsor shall be required to post warning signs and, if necessary, restrict public access to the eastern aprons of Piers 27-29 during the occurrence of high-speed winds that could result in hazardous wind conditions for spectators, and implement design features that provide wind protection for public access areas. If average wind speed at pedestrian height exceeds 26 mph, or when the National Weather Service issues high wind warnings for the Bay, the project sponsor shall implement this measure. As experience with the local wind conditions is gained, this trigger should be adjusted to suit the wind conditions that are experienced on the pier.	ACEA and Port	Procedure and signage shall be submitted to ERO for approval prior to 2012 AC34 events. If average wind speed at pedestrian height exceeds 26 mph, or when the National Weather Service issues high wind warnings for the Bay, procedure shall be implemented	Port, Planning Department and ERO	Considered completed upon completion of AC34 events

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RECREATION				
America's Cup				
<p>Mitigation Measure M-RE-1: Protection of Recreational Resources</p> <p>As described in the Project Description, the <i>Parks Event Operations Plan</i> (applicable to National Park Service [NPS], Presidio Trust, California Department of Parks and Recreation [CDPR], and San Francisco Recreation and Parks Department [SFRPD]) will be prepared and implemented in support of the proposed project. Also as described in the Project Description, the City and Event Authority are coordinating with local agencies and jurisdictions (including BCDC, Marin County, Sausalito, Tiburon, and Belvedere). As the plan and agency coordination are still under development, this mitigation measure requires that the plan and ongoing agency coordination to incorporate specific elements to protect recreational resources through protection and restoration requirements. The <i>Parks Event Operations Plan</i> and the agency coordination shall each include, for their respective jurisdictions, the following measures to protect and restore recreational resources:</p> <ul style="list-style-type: none"> • Identification of Recreational Resource Areas of Special Concern. Agency coordination shall include identification of recreational resource areas of special concern to land management agencies (e.g., Crissy Field picnic area near the Warming Hut) that could provide attractive spectator viewing opportunities, determination of the existing condition of resources, identification of requirements for additional service levels at recreational facility restrooms and trash/recycling needs, and identification of any necessary agreements, such as a memorandum of understanding or memorandum of agreement, to document commitments regarding protection and restoration of recreation resource areas of special concern. • Crowd Control: The project sponsor shall ensure that crowd control volunteers and/or enforcement personnel are posted at or near the recreation resources identified to be of special concern in order to manage crowd levels at those locations. The exact number, location, and timing of the crowd control volunteers shall be determined in consultation with the appropriate land authority where the indirect impacts are anticipated. • Post-Event Repair: Following each of the 2012 and 2013 AC34 events, the project sponsor shall ensure that recreational resource areas of special concern are returned to their previously identified pre-project condition to the extent damaged by event activities, which could include trash collection, facility repairs, restroom maintenance, pavement washing, trail repair, revegetation, and resodding. 	ACEA, OEWD, and contractors	Plan shall be completed and approved by NPS, CDPR, Presidio Trust, and SFRPD, and submitted to the ERO, prior to 2012 AC34 events; measures shall be implemented during and after events	SFRPD, CDPR, Presidio Trust, National Park Service, Planning Department and ERO	Considered completed upon completion of post-event repair

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BIOLOGICAL RESOURCES: UPLAND BIOLOGICAL RESOURCES				
America's Cup				
<p>Mitigation Measure M-B1-1a: Protecting Sensitive Areas for Mission Blue Butterfly</p> <p>The AC34 project sponsor shall ensure that areas supporting the habitat for Mission blue butterflies (<i>Lupinus albus</i>) are adequately protected against incidental impacts by spectators for AC34 events. These areas shall be avoided. This shall be accomplished by working with the National Park Service (NPS) to develop a detailed strategy for protecting sensitive butterfly areas, including area closures, fencing, signage, and staffing. Federal and state agencies would likely require these or similar measures pursuant to their mission and obligations under federal and state law. The project sponsor shall work with NPS to implement an appropriate combination of the following conservation measures to ensure that these areas will be avoided:</p> <ul style="list-style-type: none"> • New fence or fence augmentation. Fencing could consist of, as an example, higher fencing with additional cabling or wire mesh backing. If NPS requires fencing in 2012, these fences will be light enough for removal between 2012 and 2013 race events, and will be obvious deterrents to visitors. Fences, if required, will be in place prior to the start of the AC events. Areas fenced will have signs at frequent intervals announcing that these are sensitive wildlife/botanical areas. Final fencing type and signage will be coordinated with the NPS. • Trail, area, or roads could be closed during race events. For Mission blue butterfly, this could include closure of roads and trails at Fort Baker and the Marin Headlands, including closure of Conzelman Road in the Marin Headlands during race events. • Resource monitors. Resource monitors will be placed at areas of greatest spectator density or as an augmentation of the signage and fencing protection measures. The monitors shall be trained in both the sensitive species of the area and in the proper manner to interact with and inform spectators. In coordination with NPS, NPS law enforcement personnel would provide additional support as needed. 	ACEA and OEWD	Locations and specifications of fences shall be approved by NPS, and approval provided to the ERO, prior to 2012 AC34 events. Fences, if required, will be in place prior to the start of events; will be in place during events	NPS; Planning Department and ERO	Considered completed upon completion of AC34 events

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BIOLOGICAL RESOURCES: UPLAND BIOLOGICAL RESOURCES (cont.)				
America's Cup (cont.)				
<p>Mitigation Measure M-BI-1b: Protecting Listed and Other Special Status Plant Areas</p> <p>The project sponsor shall ensure that areas supporting special-status plants are adequately protected against incidental impacts by spectators for AC34 events or displaced park visitors. These areas shall be avoided. These plants are largely concentrated in the dunes and serpentine soils of the Presidio at and above Baker Beach and along Lincoln Boulevard, the serpentine areas on Angel Island and at Crissy Marsh and Beach. Federal and state agencies would likely require these or similar measures pursuant to their mission and obligations under federal and state law. The project sponsor will work closely with the NPS and the California Department of Parks and Recreation (CDPR) to develop a detailed strategy for protecting plant populations by implementing an appropriate combination of the same three measures that are identified in Mitigation Measure M-BI-1a (Protecting Sensitive Areas for Mission Blue Butterfly): (1) fencing as necessary; (2) resource monitors; and/or (3) trail/area closures.</p>	ACEA and OEWD	Locations and specifications of fences and closures shall be approved by NPS, and approval provided to the ERO, prior to 2012 AC34 events. If required, these measures will be in place prior to the start of events; will be in place during events	NPS, CDPR, SFRPD, Presidio Trust, Planning Department and ERO	Considered completed upon completion of AC34 events
<p>Mitigation Measure M-BI-1c: Protecting the Crissy Beach Wildlife Protection Area (WPA)</p> <p>The project sponsor shall ensure that areas supporting western snowy plover are adequately protected against incidental impacts by spectators or AC34 events. These areas shall be avoided. The western snowy plovers are concentrated within the Crissy Beach WPA, which is managed by NPS. Similar to the measures identified in Mitigation Measures M-BI-1a (Protecting Sensitive Areas for Mission Blue Butterfly) and M-BI-1b (Protecting Listed and Other Special Status Plant Areas), NPS would likely require these or similar measures pursuant to their mission and obligations under federal law, and the project sponsor will work with NPS to develop a detailed strategy for protecting western snowy plover populations within the project area, which will include an appropriate combination of the following three measures as identified above: (1) signage and fencing as necessary; (2) resource monitors; and/or (3) area closures. In particular, NPS may decide to close temporarily the WPA on race days.</p>	ACEA and OEWD	Locations and specifications of fences and closures shall be approved by NPS, and approval provided to the ERO, prior to 2012 AC34 events. If required, these measures will be in place prior to the start of events; will be in place during events	NPS, Planning Department and ERO	Considered completed upon completion of AC34 events

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BIOLOGICAL RESOURCES: UPLAND BIOLOGICAL RESOURCES (cont.)				
America's Cup (cont.)				
<p>Mitigation Measure M-BI-1d: Protecting Offshore Portion of the Wildlife Protection Area (WPA)</p> <p>The project sponsor shall work with the necessary governmental authorities to create a 100-yard offshore buffer in the form of a marked, marine-protected zone established offshore of the Crissy Beach WPA to mitigate impacts on western snowy plover. For a detailed map of the Crissy Beach, see Appendix PD-3, <i>NPS Management Zone Planning Maps for West Crissy Field</i>. The protected zone will exclude all boat traffic throughout the duration of the AC34 events, which could include the use of trained boat-based resource monitors. Information regarding protection zones will be included within a detailed 'Notice to Mariners' that will be administered by the United States Coast Guard (see also Mitigation Measure M-BI-12, (Visiting Mariners Information). See also Mitigation Measure M-BI-4b (Offshore Buffers for Breeding Birds and Snowy Plover). A reduced buffer could be provided on a case-by-case basis to the extent approved by necessary governmental authorities based on site-specific conditions.</p>	ACEA, ACRM, and OEWD	Locations and specifications of buffer shall be approved by NPS, and approval provided to the ERO, prior to 2012 AC34 events. If required, these measures will be in place prior to the start of events; will be in place during events	NPS, USCG, and Planning Department and ERO	Considered completed upon completion of AC34 events
<p>Mitigation Measure M-BI-1e: Restrictions on Fireworks and Night Lighting</p> <p>In consultation with the NPS, fireworks or cannon fire will be limited to protect plovers and nesting birds on Alcatraz from harassment. Such restrictions are likely to limit where such activities are staged, or stipulate maximum allowable noise (decibels) at the Crissy Field WPA or at Alcatraz. Where exterior lights are to be left on at night, the AC34 project sponsor shall install fully shielded and downward cast lights to contain and direct light away from habitat, the sky, and Bay waters.</p>	ACEA	Restrictions shall be approved by NPS, and approval provided to ERO, prior to AC34 events and in place for duration of events	NPS and Planning Department and ERO	Considered completed upon completion of AC34 events
<p>Mitigation Measure M-BI-2: Signage at Sensitive Natural Community Areas; "No Spectator" Zone on Yerba Buena Island</p> <p>The project sponsor shall ensure that adequate signage is established in every area that meets the criteria for sensitive natural community. Signage type and placement shall be coordinated with and approved by the appropriate land authority – NPS, Presidio Trust, CDPR, or the Treasure Island Development Authority (for signage on Yerba Buena Island only) – through the preparation and submittal of a formal Fencing and Signage Plan that will exclude visitors from the sensitive natural community areas.</p> <p>No spectators shall be permitted on the western slope of Yerba Buena Island west of Treasure Island Road, to protect sensitive habitats (northern coastal [<i>Franciscan</i>] scrub vegetation).</p>	ACEA and OEWD	Locations and specifications of fences and closures shall be approved by NPS, CDPR, Presidio Trust, and Treasure Island Development Authority, and approval provided to the ERO, prior to 2012 AC34 events. If required, these measures will be in place prior to the start of events; will be in place during events	Planning Department and ERO, and NPS, Presidio Trust, CDPR, and Treasure Island Development Authority for lands within their respective jurisdictions	Considered completed upon completion of AC34 events

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Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
BIOLOGICAL RESOURCES: UPLAND BIOLOGICAL RESOURCES (cont.)				
America's Cup (cont.)				
Mitigation Measure M-BI-3: Signage at Wetland Sites <p>The project sponsor shall ensure that adequate "keep out" signage is established in every area that meets the criteria for federally-protected wetlands (by Clean Water Act or National Park Service authority) in the area of Crissy Field in the Presidio. These include Crissy Marsh itself and those Cowardin wetlands shown in Figure 5.14-2, and the spring on Angel Island shown in Figure 5.14-3. Signage type and placement shall be coordinated with and approved by the appropriate land authority –NPS, CDPK, or Presidio Trust – through the preparation and submittal of a formal Fencing and Signage Plan, designed to exclude visitors from the federally protected wetlands.</p>	ACEA and OEWD	Fencing and Signage plan shall be submitted and approved by applicable agency, and approval submitted to ERO, prior to events; plan shall be implemented during events	NPS, Presidio Trust, CDPK, San Francisco Planning Department ERO	Considered completed upon completion of AC34 events
Mitigation Measure M-BI-4a: Restrictions on Spectator Craft within Race Course Boundaries <p>As part of the proposed project, the AC34 project sponsor will be working with the United States Coast Guard (USCG) to implement a Water and Air Traffic Plan to provide navigational and operational safety guidelines for race team, support, spectator, and large luxury yacht vessel activities associated with the AC34 events that meet USCG regulations. As part of this effort, the plan shall include provisions and restrictions to minimize the movement of spectator boats and thereby minimize disruption of feeding or resting least terns and other birds. Specifically, this may include requiring spectator vessels to be either anchored or as stationary as possible, maneuvering only to maintain safe distances from other vessels within the boundaries of the race course when races are occurring.</p>	ACEA, ACRM, and OEWD	Water and Air Traffic Plan shall be approved by USCG and submitted to the ERO prior to AC34 events; enforcement shall occur during events	USCG and Planning Department and ERO	Considered completed upon completion of AC34 events
Mitigation Measure M-BI-4b: Offshore Buffers for Breeding Birds and Snowy Plover <p>The AC34 project sponsor shall work with the necessary governmental authorities to create a 100-yard offshore buffer in the form of a marked, marine-protected zone established offshore of areas with colonial breeding birds and other sensitive biological resources (such as snowy plovers at Crissy Beach) in order to exclude vessels from the area. For detailed maps of Alcatraz Island and Crissy Beach sensitive natural resource areas, see Appendix PD (NPS Management Zone Planning Maps for Alcatraz Island and West Crissy Field.) As a practical matter, this will be defined as a 100-yard buffer between any event or motorized spectator vessel and the undeveloped shoreline of the mainland or any island in the Bay. The protected zones at Alcatraz Island and Crissy Beach will exclude all boat traffic throughout the duration of the AC34 race events, which</p>	ACEA, ACRM, and OEWD	Locations and specifications of buffer shall be approved by NPS, and approval provided to the ERO, prior to 2012 AC34 events. If required, these measures will be in place prior to the start of events; will be in place during events	NPS, Planning Department and ERO	Considered completed upon completion of AC34 events

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Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
BIOLOGICAL RESOURCES: UPLAND BIOLOGICAL RESOURCES (cont.)				
America's Cup (cont.)				
<p>Mitigation Measure M-BI-4b: Offshore Buffers for Breeding Birds and Snowy Plover (cont.)</p> <p>could include the use of trained boat-based resource monitors. Information regarding protection zones will be included within a detailed 'Notice to Mariners' that will be administered by the United States Coast Guard under Mitigation Measure M-BI-12, (Visiting Mariners Information). Aircraft overflights shall also be restricted within 1,000 feet of the airspace and marine perimeter of these areas.³ A reduced buffer could be provided on a case-by-case basis to the extent approved by necessary governmental authorities based on site-specific conditions. See also Mitigation Measure M-BI-1d (Protecting Offshore Portion of the Wildlife Protection Area).</p>				
<p>Mitigation Measure M-BI-4c: Protection for Breeding Birds on Piers and Associated Structures</p> <p>The project sponsor shall avoid demolition of structures on piers between March 1 and August 1. If demolition must occur during the nesting season, these areas shall be "netted" to prevent gulls from nesting there. Netting materials to be used shall be those developed specifically for bird exclusion. For possible cliff swallow nesting under piers, and in addition to netting, work in these areas shall be preceded by a pre-construction survey if work proceeds during the nesting season. The survey shall take place within two weeks of the start of work, and the nests avoided by at least 50 feet, or other actions developed in coordination with the California Department of Fish and Game (CDFG).</p>	ACEA and Port	Coordination with, and approval of, CDFG shall occur prior to demolition. Approval shall be submitted to ERO prior to demolition	CDFG, San Francisco Planning Department and ERO	Considered completed upon completion of demolition activities
<p>Mitigation Measure M-BI-4d: Protection for Bat Roosts on Piers and Associated Structures</p> <p>Within two weeks before demolition, buildings showing evidence of bat activity shall be surveyed by a qualified bat biologist. If active maternity roosts are found they shall be avoided, unless disturbance is authorized by CDFG. If no maternity roosts are found, the bat biologist shall take actions under CDFG guidance to make such roosts unsuitable habitat prior to building demolition, such as sealing access routes used by bats when the bats are absent.</p>	Port and bat biologist	Coordination with, and approval of, CDFG shall occur prior to demolition. Approval shall be submitted to ERO prior to demolition	CDFG, San Francisco Planning Department and ERO	Considered completed upon completion of demolition activities

3 Subject to the review and approval of the Federal Aviation Administration

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Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
BIOLOGICAL RESOURCES: UPLAND BIOLOGICAL RESOURCES (cont.)				
<i>America's Cup (cont.)</i>				
Mitigation Measure M-BI-4e: Protection for Colonial Breeding Birds on Alcatraz The AC34 project sponsor shall allow no event-related public visitation, special events, or construction activities to be carried out near the western cliffs used by breeding seabirds. NPS would likely require these or similar measures pursuant to their mission and obligations under federal law. If required by NPS, the project sponsor shall install durable visual barriers, such as shade cloth fastened to 2-by-4-inch welded mesh, prior to arrival of birds for pre-nesting (February 1). All such areas will be considered "closed areas" with signs, similar to those described in Mitigation Measure M-BI-1a (Protecting Sensitive Areas for Mission Blue Butterfly), explaining the presence of the seabird colony and why it is important to stay behind barricades and view from a distance.	ACEA and OEWD	Specifications and locations of fencing and signage shall be approved by NPS, and approval shall be submitted to the ERO by January 15. Fences shall be in place prior to arrival of birds for pre-nesting (February 1)	NPS, San Francisco Planning Department ERO	Considered completed upon completion of AC34 events
See Exhibit 2				
Mitigation Measure M-LT-BIa: Long-Term Development Mitigation for Upland Biological Resources (see Exhibit 2)				
BIOLOGICAL RESOURCES: MARINE BIOLOGICAL RESOURCES				
<i>America's Cup</i>				
Mitigation Measure M-BI-11a: Impact Hammer Pile Driving Noise Reduction for Protection of Fish Prior to the start of construction, the project sponsor shall develop a National Marine Fisheries Service (NMFS)-approved sound attenuation monitoring plan. This plan shall provide detail on the sound attenuation system, detail methods used to monitor and verify sound levels during pile driving activities, and management practices to be taken to reduce impact hammer pile-driving sound in the marine environment to an intensity level of less than 183 dB. The sound monitoring results shall be made available to the NMFS. The plan shall incorporate but not be limited to the following best management practices (BMPs):	ACEA	Sound attenuation monitoring plan shall be approved by NMFS and submitted to the ERO prior to the start of construction; plan shall be implemented during construction	NMFS, CDFG, Port, Planning Department and ERO	Considered completed upon completion of AC34 construction activities

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BIOLOGICAL RESOURCES: MARINE BIOLOGICAL RESOURCES (cont.)				
<i>America's Cup (cont.)</i>				
Mitigation Measure M-BI-11a: Impact Hammer Pile Driving Noise Reduction for Protection of Fish (cont.)				
<ul style="list-style-type: none"> All 18 and 24-inch diameter pilings shall be installed and removed with vibratory pile drivers only. Vibratory pile driving will be conducted following the U.S. Army Corps of Engineers "Proposed Procedures for Permitting Projects that will Not Adversely Effect Selected Listed Species in California".⁴ All 72-inch steel pilings shall be installed with a vibratory pile driver to the deepest depth practicable. An impact pile driver may be used only where necessary to complete installation of the 72-inch steel pilings in accordance with seismic safety or other engineering criteria. All piling installation using impact hammers shall be conducted between June 1 and November 30, when the likelihood of sensitive fish species being present in the work area is minimal. If pile installation using impact hammers must occur at times other than the approved work window, the AC34 project sponsors shall obtain incidental take authorization from NMFS, and CDFG to address potential impacts on steelhead trout, chinook salmon, and Pacific herring and implement all requested actions to avoid impacts. The project sponsor shall develop a NMFS-approved sound attenuation monitoring plan prior to the start of construction. This plan shall provide detail on the sound attenuation system and the methods used to monitor and verify sound levels during pile driving activities. The sound monitoring results will be made available to NMFS. If exceedance of noise thresholds established and approved by NMFS occur, a contingency plan using bubble curtains or air barrier will be implemented to attenuate sound levels to below thresholds. The hammer will be cushioned using a 12-inch thick wood cushion block during all impact hammer pile driving operations. 				

⁴ NMFS, 2007a.

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Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
BIOLOGICAL RESOURCES: MARINE BIOLOGICAL RESOURCES (cont.)				
<i>America's Cup (cont.)</i>				
<p>Mitigation Measure M-BI-11b: Pile Driving Noise Reduction for Protection of Marine Mammals</p> <p>As part of the NMFS-approved sound attenuation monitoring plan required in Mitigation Measure M-BI-11a (Impact Hammer Pile Driving Noise Reduction for Protection of Fish), the project sponsor shall take actions in addition to those listed in Mitigation Measure M-BI-11a to reduce the effect of underwater noise transmission on marine mammals. These actions shall include at a minimum:</p> <ul style="list-style-type: none"> Establishment of a 1,600-foot (500-meter) safety zone that shall be maintained around the sound source, for the protection of marine mammals in the event that sound levels are unknown or cannot be adequately predicted. Work activities shall be halted when a marine mammal enters the 1,600-foot (500-meter) safety zone and resume only after the animal has been gone from the area for a minimum of 15 minutes. A "soft start" technique shall be employed in all pile driving to marine mammals an opportunity to vacate the area. Maintain sound levels below 90 dBA in air when pinnipeds (seals and sea lions) are present.⁵ <p>A NMFS-approved biological monitor will conduct daily surveys before and during impact hammer pile driving to inspect the work zone and adjacent Bay waters for marine mammals. The monitor will be present as specified by NMFS during the impact pile-driving phases of construction.</p>	ACEA and biological monitor	Sound attenuation monitoring plan shall be approved by NMFS and submitted to the ERO prior to the start of construction; daily surveys shall be implemented during impact pile driving;	NMFS, CDFG, Port, Planning Department and ERO	Considered completed upon completion of AC34 pile-driving activities
<p>Mitigation Measure M-BI-11c: Floating Dock Night Lighting</p> <p>The project sponsor shall install dock lighting on all temporary floating docks that minimizes artificial lighting of Bay waters by using shielded, low-mounted, and low light-intensity fixtures and bulbs.</p>	ACEA	Lighting specifications shall be provided to ERO prior to construction. Lighting shall be installed during construction	Port, Planning Department and ERO	Considered completed upon completion of lighting installation

⁵ NMFS (National Marine Fisheries Service). 2007. *op cit*.

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America's Cup (cont.)				
<p>Mitigation Measure M-BI-12: Visiting Mariners Information</p> <p>The AC34 project sponsor shall prepare as part of their Water and Air Traffic Plan information for visiting mariners as well as procedures for the dissemination of this information to visiting boaters prior to or upon arrival to San Francisco Bay for the AC34 2012 and 2013 races. This information to be made available to visiting boaters shall include, but not be limited to, information educating boat owner/operators about sensitive habitats and species in the Bay and actions they are required to implement to avoid impacts to marine resources. The plan shall also include information on how to employ environmentally sound boating practices and where to find environmental services to ensure clean boating habits. The plan shall identify marinas that are available for use by visiting mariners (e.g., marinas in San Francisco and Marin County) and provide information about the locations of environmental services that boaters in these marinas are most likely to need. Educational materials shall clearly address, in multiple languages, common sources of pollution from boats and marinas and relevant regulations and clean boating policies, and shall provide a succinct description of best management practices to prevent pollution from common sources including oil and fuel, sanitary waste, detergents, hazardous waste, and marine debris (including the use and proper disposal of oil adsorbents in power boat bilges).</p> <p>The visiting mariners information in the Water and Air Traffic Plan shall include details on how this information will be disseminated to visiting boaters, including but not limited to brochures, or pamphlets, or educational signs; AC34 websites; boating, cruising, and newspaper periodicals; social media; and area yacht clubs and marinas; and all AC34 mooring locations. Educational information shall be made available at waterway entry points such as boat launch ramps, marinas, yacht clubs, and ports, in partnership with appropriate agencies and where cooperation from boater facilities can be achieved. The plan shall be prepared soliciting input from and in cooperation with the National Marine Fisheries Service (NMFS), United States Coast Guard (USCG), California State Lands Commission, California Department of Fish and Game (CDFG), National Park Service (NPS), California Department of Parks and Recreation (CDPR), Bay Conservation and Development Commission (BCDC), State Water Resources Control Board, California</p>	ACEA, ACRM, and OEWD	Mariners information prepared as part of the Water and Air Traffic Plan shall be prepared prior to June 2012 and submitted to the ERO. The information shall be disseminated prior to and during all AC34 races	USCG, DBW, Regional Water Quality Control Board, Port, Planning Department and ERO	Considered completed upon completion of AC34 events

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<i>America's Cup (cont.)</i>				
Mitigation Measure M-BI-12: Visiting Mariners Information (cont.)				
<p>Department of Boating and Waterways (DBW), the Port of San Francisco, San Francisco Estuary Partnership, and local organizations active in protecting Bay marine resources, and relevant industry stakeholders, including but not limited to California Harbormasters and Port Captains Association, Marine Recreation Association, Clean Marinas California Program, Recreational Boaters of California, the Pacific Inter-Club Yacht Association, boat yard representatives, and local San Francisco Bay Area Yacht Clubs.</p> <p>Visiting Mariners Information contained within the Water and Air Traffic Plan shall include, but not be limited to the following items:</p> <ul style="list-style-type: none"> Information on the location of eelgrass beds in the Central Bay, especially Richardson Bay and adjacent to Angel, Alcatraz, and Treasure Islands and the importance of protecting and avoiding these sensitive habitats (e.g., by not anchoring in or transiting through them) Information on where boaters may safely dock dinghies and vessel tenders when coming on shore Information on proper and legal waste handling in the Bay and facilities for onshore disposal during the AC34 activities Information on invasive species and their impact on Bay marine ecosystems and boaters as well as best management practices developed by the AC34 Invasive Species Task Force that boaters should implement to prevent the introduction or spread of invasive species into and out of the San Francisco Bay. These provisions will include but not be limited to pending and proposed regulations by state and federal agencies responsible for the control of invasive organisms and will incorporate established effective strategies such as "clean before you go." Information on the Vessel Traffic Service for San Francisco Bay and changes that will be in place during AC34 races Federal and state regulations prohibiting the harassment of marine mammals 				

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America's Cup (cont.)				
Mitigation Measure M-BI-12: Visiting Mariners Information (cont.)				
<ul style="list-style-type: none"> Information on any buffer zones established around Central Bay islands and other Bay locations to protect sensitive bird nesting sites Materials produced by DBW that include information about onsite and nearby environmental services that support clean boating practices (such as the locations of sewage pumpouts, oil change facilities, used oil recycling centers, bilge pumpouts, absorbent pad distribution and spent pad collection, and boat-to-boat environmental services) Information regarding the importance of keeping plastic out of Bay waters Signage regarding locations of waste collection containers posted at and adjacent to temporary docks, berthing facilities, and areas used by moored spectator vessels (10 vessels or more) developed for the AC34 events 	ACEA	Documentation of coordination, outreach, and outcomes shall be submitted to ERO prior to 2012 events	Planning Department and ERO	Considered completed upon completion of AC34 events
<p>Due to the extent of berthing, mooring, and marina facilities within the Bay shoreline, the Event Authority shall coordinate with other jurisdictions with respect to waste management at secondary viewing areas, such as (but not limited to) Treasure Island, Angel Island, Sausalito, Belvedere, and Tiburon. Coordination and outreach efforts with those jurisdictions would further minimize the potential for discards and pollution to enter Bay waters from private vessels. Additionally, the Event Authority could develop, as part of official AC34 event literature, maps of the marinas that show the locations of fuel docks, sewage pumpouts, portable toilets, dump stations, used oil collection services, bilge pumpouts, oil absorbent pad distribution and collection services, oil change services, solid waste recycling services, and other environmental services for boaters. The sources of information for literature and maps developed under this mitigation measure will include, as appropriate, information available through resources such as the San Francisco Estuary Partnership and California's Boating Clean and Green Campaign (including the San Francisco Bay Area Clean Boating Map) subject to agreement with the resources agencies and organizations providing input to the development of the outreach materials.</p>				

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America's Cup (cont.)				
<p>Mitigation Measure M-BI-14: Restrictions on Low-Flying Aircraft</p> <p>As part of the Water and Air Traffic Plan, the project sponsor shall include instructions to AC34 contracted and race-affiliated helicopters that they maintain a minimum altitude of 1,000 feet above the water's surface when humpback whales are present within the race course. Upon takeoff at the auxiliary landing pad located, all helicopters shall be required to climb immediately to altitude and not fly low over the water if any seal or sea lions are present within 1,000 feet of the helipad. When landing, the helicopters shall approach the landing pad from as high an altitude as possible and limit their time at low altitudes over the water if seals or sea lions are present within 1,000 feet of the helipad.</p>	ACEA, ACRM, and OEWD	Plan shall be prepared prior to June 2012 and submitted to the ERO. Restrictions shall be in place for the duration of events	NPS, Planning Department and ERO	Considered completed upon completion of AC34 events
<p>Mitigation Measure M-BI-16: Invasive Marine Species Control</p> <p>The project sponsor shall develop and implement an Invasive Species Control Plan prior to commencement of any in-water work including piers, wharfs, bulkheads, pile driving, and installation of temporary structures. The plan shall be prepared in consultation with the United States Coast Guard (USCG), RWQCB, and the Port of San Francisco. Provisions of the plan shall include but not be limited to the following:</p> <ul style="list-style-type: none"> • Environmental training of construction personnel involved in the removal of pier pilings, temporary floating docks, piling suspended barges, and wave attenuators, to inform them about invasive marine species in San Francisco Bay that might be attached to removed structures • Actions to be taken to prevent the release and spread of marine invasive species, especially algal species such as Undaria and Sargasso • Procedures for the safe removal and disposal of any invasive taxa observed on the removed structures prior to disposal or reuse of pilings, docks, wave attenuators, and other features • The onsite presence of qualified marine biologists to assist the contractor in the identification and proper handling of any invasive species on removed Port equipment or materials • A post-construction report identifying what, if any, invasive species were found attached to removed equipment and materials and the treatment/handling of identified invasive species. 	ACEA, ACRM, and OEWD	Plan shall be prepared prior to construction. Plan, including documentation of consultation with relevant agencies, shall be provided to EIR prior to the 2012 events. The Plan shall be in place for duration of construction. Post-construction report shall be submitted to the ERO after construction	Regional Water Quality Control Board, Planning Department and ERO	Considered completed upon completion of AC34 construction

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America's Cup (cont.)				
Mitigation Measure M-LT-B1b: Long-Term Development Mitigation for Marine Biological Resources (see Exhibit 2)	See Exhibit 2			
GEOLOGY AND SOILS MITIGATION MEASURES				
America's Cup				
Mitigation Measure M-GE-2: Site-Specific Geotechnical Investigation The project sponsor shall conduct a site-specific geotechnical investigation for piers requiring upgrading under the direction of a geotechnical engineer prior to permitting any new construction or reuse that would increase the load of the structure. The investigation shall be performed to evaluate subsurface conditions and existing structural conditions at the site, and shall evaluate the potential for geological and seismic hazards including settlement, ground shaking, ground rupture, liquefaction, subsidence, slope stability, and lateral spreading. Recommendations shall be made regarding the pile and foundation requirements, seawall stability, seismic design, and mitigation of geologic hazards, and these recommendations shall be included in the project design, subject to the review and approval by the Port of San Francisco Chief Harbor Engineer to determine compliance with the Port of San Francisco Building Code.	ACEA and geotechnical engineer	Reports shall be reviewed by Port of San Francisco and submitted to the ERO prior to issuance of Port building permits	Port, Planning Department and ERO	Considered completed upon completion of construction
Mitigation Measure M-GE-6: Signage and Restricted Access at Structurally Unsound Viewing Locations The project sponsor shall ensure that adequate signage at, and shall control or restrict public access to, structurally unsound piers and wharfs including Torpedo Wharf at Crissy Field, the pier at Fort Mason west of the Municipal Pier, Municipal Pier at Aquatic Park, and other piers determined to be structurally unsound after site investigations during the AC34 events. Signage type and placement shall be coordinated with and approved by the appropriate land authority –NPS or San Francisco Recreation and Park Department. To inform the public, a sign shall be posted at each location informing the public of potential risks associated with use of the structures and prohibiting public access during the AC34 events. Gates or other methods of prohibiting access to structurally unsound viewing locations could be installed if existing facilities are not sufficient to block public access to structurally unsound viewing locations. See also Mitigation Measures M-BI-2 and M-BI-3 regarding signage for biological resources.	ACEA, OEWD, and Port	Approval of sign placement and type by NPS and Port shall be provided to ERO prior to 2012 events. Signs shall be in place, and gates installed, prior to AC34 events	NPS, Planning Department and ERO	Considered completed upon completion of AC34 events

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ATTACHMENT B-1:

AC34 PROJECT VARIANT – MITIGATION MONITORING AND REPORTING PROGRAM

(Including the Text of the Mitigation Measures Adopted as Conditions of Approval. See Attachment 2 for Mitigation Measures Applicable to Long-Term Development)

Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
GEOLOGY AND SOILS MITIGATION MEASURES (cont.)				
America's Cup				
Mitigation Measure M-LT-GE: Mitigation of Geology and Soils Impacts from Long-Term Development on Port Properties (see Exhibit 2)	See Exhibit 2			
HYDROLOGY AND WATER QUALITY MITIGATION MEASURES				
America's Cup				
Mitigation Measure M-HY-1: Water Quality Best Management Practices The project sponsor shall implement water quality best management practices (BMPs) to protect water quality as well as protected species and their habitat(s) from pollution due to fuels, oils, lubricants, and other harmful materials. BMPs for this proposed project shall follow those detailed in the San Francisco Department of Public Health Pollution Prevention Toolkit for Maritime Industries. ⁶ Vehicles and equipment that are used during the course of a proposed project shall be fueled and serviced in a manner that will not affect federally protected species in the project area or their habitats; • A Spill Prevention Control and Countermeasure (SPCC) Plan shall be prepared to address the emergency cleanup of any hazardous material and will be available on site. The SPCC shall include: <ul style="list-style-type: none">- Methods to address the emergency cleanup of any hazardous material and what materials will be available on site;- SPCC, hazardous waste, stormwater and other emergency planning requirements;- Measures to prevent spills into the Bay associated with in water fueling, if in water fueling is required on some of the construction barges. Such measures shall include;<ul style="list-style-type: none">• Secondary booms and/or pads, depending upon where fueling would take place on the vessel;• Secondary containment on the deck of the vessel to contain the petroleum product;	ACEA, ACRM, or contractor	SPCC and MMDP Plans shall be submitted to the SFDPH, Port of San Francisco, and the ERO prior to construction. Plans and measures shall be in place during construction	ACEA, ACRM, or contractor shall submit a Monitoring Report, detailing survey results and compliance with the specified measure, to SFDPH for approval after construction. Copies of the report shall be sent to the Port, Planning Department and ERO.	Considered complete upon agency receipt of SFDPH-approved Monitoring Report

6 Virginia St. Dean, San Francisco Department of Public Health, *Pollution Prevention Toolkit for Maritime Industries*, prepared for: California Department of Toxic Substances Control Under Contract #08-T3625-A2, January 2011

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HYDROLOGY AND WATER QUALITY MITIGATION MEASURES (cont.)				
<i>America's Cup (cont.)</i>				
Mitigation Measure M-HY-1: Water Quality Best Management Practices (cont.)				
<ul style="list-style-type: none"> Specifying volume of petroleum products that will be on the vessel and evaluating the potential for spills. Absorbent and cleanup materials (such as oil sorbent boom, heavy oil pads, OilDry Absorbent Floor, etc) of sufficient quantity to clean up potential spill volume shall be provided; and The locations of properly permitted offsite locations where vessels will be fueled; 				
<ul style="list-style-type: none"> In addition, fueling of equipment shall occur using proper fuel transfer procedures as per U.S. Coast Guard regulations (33 CFR 156.120 and 33 CFR 155.320) and spill containment and the fueling location shall be inspected after fueling to document that no spills have occurred. Any spills shall be cleaned up immediately using spill response equipment as identified in the SPCC Plan. In addition, fueling of equipment shall occur using proper fuel transfer procedures as per U.S. Coast Guard regulations (33 CFR 156.120 and 33 CFR 155.320) and spill containment and the fueling location shall be inspected after fueling to document that no spills have occurred. Any spills shall be cleaned up immediately using spill response equipment as identified in the SPCC Plan. Well-maintained equipment shall be used to perform the construction work, and, except in the case of a failure or breakdown, equipment maintenance shall be performed off site. Equipment shall be inspected daily by the operator for leaks or spills. If leaks or spills are encountered, the source of the leak shall be identified, leaked material will be cleaned up, and the cleaning materials shall be collected and will be properly disposed; The project sponsor shall exercise every reasonable precaution to protect listed species, their habitats, and Essential Fish Habitat from construction by-products and pollutants such as demolition debris, construction chemicals, fresh cement, saw-water, or other deleterious materials. Construction will be conducted from both land and water, and care shall be used by equipment operators to control debris so that it does not enter the Bay. A Materials Management Disposal Plan (MMDP) shall be prepared to prevent any debris from falling into the Bay during construction to the maximum extent practicable. The measures identified in the MMDP shall be based on the Best Available Technology, and will include, but not be limited to, the following measures: 				

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(Including the Text of the Mitigation Measures Adopted as Conditions of Approval. See Attachment 2 for Mitigation Measures Applicable to Long-Term Development)

Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
HYDROLOGY AND WATER QUALITY MITIGATION MEASURES (cont.)				
<i>America's Cup (cont.)</i>				
Mitigation Measure M-HY-1: Water Quality Best Management Practices (cont.)				
<ul style="list-style-type: none"> - During construction, the barges performing the work shall be moored in a position to capture and contain the debris generated during any sub-structure or in-water work. In the event that debris does reach the Bay, personnel in workboats within the work area shall immediately retrieve the debris for proper handling and disposal. All debris shall be disposed of at an authorized upland disposal site; - Measures to ensure that fresh cement or concrete shall not be allowed to enter San Francisco Bay. Construction waste shall be collected and transported to an authorized upland disposal area, and per federal, state, and local laws and regulations; - All hazardous material shall be stored upland in storage trailers and/or shipping containers designed to provide adequate containment. Short-term laydown of hazardous materials for immediate use shall be permitted with the same anti-spill precautions; - All construction material, wastes, debris, sediment, rubbish, trash, fencing, etc., shall be removed from the site once the proposed project is completed and transported to an authorized disposal area, in compliance with applicable federal, state, and local laws and regulations; - Construction material that could wash or blow away shall be covered every night and during any rainfall event (if there is one); - Construction crews shall reduce the amount of disturbance within the project site to the minimum necessary to accomplish the project; and - Measures to prevent saw water from entering the Bay. 				
Mitigation Measure M-LT-HY: Water Quality Best Management Practices for Long-Term Development (see Exhibit 2)				
		See Exhibit 2		

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(Including the Text of the Mitigation Measures Adopted as Conditions of Approval. See Attachment 2 for Mitigation Measures Applicable to Long-Term Development)

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HAZARDS AND HAZARDOUS MATERIALS MITIGATION MEASURES				
<i>America's Cup</i>				
Mitigation Measure M-HZ-3: Removal of Hazardous Building Materials The project sponsor shall ensure that any building planned for demolition or renovation is surveyed for hazardous building materials including PCB-containing electrical equipment, fluorescent light ballasts containing PCBs or DEHP, and fluorescent light tubes containing mercury vapors. These materials shall be removed and properly disposed of prior to the start of demolition or renovation. Old light ballasts that are removed during renovation shall be evaluated for the presence of PCBs. In the case where the presence of PCBs in the light ballast cannot be verified, the light ballast shall be assumed to contain PCBs and handled and disposed of as such, according to applicable laws and regulations. Any other hazardous building materials identified either before or during demolition or renovation shall be abated according to federal, state, and local laws and regulations.	Port	During construction	Contractor shall submit a Monitoring Report, detailing survey results and compliance with the specified measure, to SFDPH for approval after construction. Copies of the report shall be sent to the Planning Department and ERO	Considered complete upon agency receipt of SFDPH-approved Monitoring Report
Mitigation Measure M-LT-HZ: Mitigation of Hazards and Hazardous Materials Impacts from Long-Term Development on Port Properties (see Exhibit 2)	See Exhibit 2			

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ATTACHMENT B-2:
LONG-TERM DEVELOPMENT MITIGATION MONITORING AND REPORTING PROGRAM
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Mitigation Measure M-LT-CP: Cultural Resources Mitigation Measures for Long-Term Development				
<ul style="list-style-type: none"> • <i>Archeological Testing, Monitoring, Data Recovery and Reporting</i> (see San Francisco Planning Department standard mitigation in Attachment 2A) 	America's Cup Event Authority or successors;	During any soils-disturbing activities	San Francisco Planning Department and ERO	Considered complete upon completion of soils-disturbing activities and submittal of any necessary documentation to ERO
<ul style="list-style-type: none"> • <i>Review of New Construction within the Port of San Francisco Embarcadero Historic District for Compliance with the Secretary's Standards</i> (see San Francisco Planning Department standard mitigation in Attachment 2B) 	America's Cup Event Authority or successors;	Prior to issuance of Port building or encroachment permits	Port of San Francisco, San Francisco Planning Department and ERO	Considered complete upon verification by Planning Department/ERO and Port of San Francisco issuance of permit(s)
<ul style="list-style-type: none"> • <i>Documentation and Interpretation for Demolition or Alteration of Buildings</i> 	America's Cup Event Authority or successors;	Documentation shall occur prior to demolition; interpretation shall occur prior to issuance of certificate of occupancy of new structure(s)	Port of San Francisco, San Francisco Planning Department and ERO shall review documentation and interpretation	Considered complete upon issuance of certificate of occupancy
<p>a. Piers 30-32 Performance Criteria</p> <p>The potential new "above deck" development at Piers 30-32, although not within the Embarcadero Historic District, shall be subject to the following:</p> <ul style="list-style-type: none"> • Port shall retain the services of qualified historic preservation expert to assist in producing design criteria to guide the form and character of long-term development of Piers 30-32 to be compatible with the character of the Embarcadero Historic District and consistent with the Secretary's Standards; • For any future Pier 30-32 long-term development proposal, the Port shall hire a qualified historic preservation expert to prepare a Historic Resources Evaluation Report (HREER) that analyzes the design of the proposed development for consistency with the Pier 30-32 design criteria, including consistency with the Secretary's Standards, and compatibility with the historic setting and character of the Embarcadero Historic District. The Report would be subject to review by the Planning Department Preservation Staff. 	Port of San Francisco and historic preservation expert	Design criteria shall be completed and submitted to EOR prior to any development proposal on Piers 30-32. HREER shall be approved by Planning Department staff prior to issuance of Port building or encroachment permits for development of Piers 30-32	Port of San Francisco and San Francisco Planning Department	Considered complete upon issuance of building or encroachment permits

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Mitigation Measure M-LT-CP: Cultural Resources Mitigation Measures for Long-Term Development (cont.)				
<p>Prior to issuance of Port Building or Encroachment Permits for optional long-term development of Piers 30-32, the Port shall consult with the Planning Department and the ERO, who shall determine whether this Mitigation Measure has been met.</p> <p>b. Performance Criteria for Long-Term Development on Historic Piers</p> <p>The project sponsor has the option to alter and rehabilitate one or more historic piers for future long-term development, which may include (among other things) the following kinds of improvements:</p> <ul style="list-style-type: none"> Construction of new accessible office/mixed use space within pier bulkheads Installation of seismic joints between the bulkhead and pier Repair or alteration of the bulkhead wharf that connects the pier to the seawall Substructure pile repairs <p>Fire safety and access improvements</p> <p>To mitigate potential impacts on historic piers that may result from the future long-term development for which there are no design details available at this time, the Port will develop design and performance criteria to guide the proposed improvements so that the work would be consistent with Port Resolution 04-89, which requires review of proposed projects for consistency with the Secretary's Standards. These design criteria and performance measures will seek to address the character defining features of typical historic pier structures that may be impacted by the proposed work. These character defining features have been described in this EIR and its supporting background reports and include:</p> <ul style="list-style-type: none"> Bulkhead building of Neo-classical or Mission architectural design with maritime Industrial transit shed including three part gable roof with central repeating or one continuous monitor for the entire length Pile supported pier deck and aprons with rail tracks either flush with the apron deck or depressed below the level of the deck Wood and steel roof trusses and structural system Transit shed walls constructed of board formed concrete punctuated at regular intervals with cargo openings with roll-up doors and clerestory industrial sash windows or sidelights 	<p>Port of San Francisco; America's Cup Event Authority or successors</p>	<p>Performance criteria must be completed and approved by the San Francisco Planning Department and ERO prior to development proposals</p> <p>Design specifications showing adherence to criteria must be approved by Port of San Francisco and San Francisco Planning Department prior to issuance of Port Building or Encroachment Permits for optional long-term development on piers</p>	<p>Port of San Francisco Planning Department/ERO</p>	<p>Considered complete upon issuance of Port building or encroachment permits</p>

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Mitigation Measure M-LT-CP: Cultural Resources Mitigation Measures for Long-Term Development (cont.)				
<ul style="list-style-type: none"> Mooring bitts and cleats mounted on the aprons wood to tie-up berthed vessels, timber fender piles attached to the side of the apron Use of industrial materials especially for the transit sheds including but not limited to concrete, steel glass and wood Historic lettering and identification signage <p>The performance criteria may include items such as the following:</p> <ol style="list-style-type: none"> All proposed repairs, alterations and improvements would be subject to Port Commission Resolution No. 04-89, which requires all projects on Port property within the Embarcadero Historic District to be reviewed for consistency with the Secretary's Standards. The proposed construction of accessible offices or mixed use in the bulkhead shall attempt to retain the sense of open interior spatial qualities of the bulkhead and pier shed so as to maintain the sense of the historic volume. The build-out of offices should avoid obstructing existing windows and doors and obscuring the interior structural elements such as columns and trusses. 				
Mitigation Measure M-LT-TR: Transportation Mitigation Measures for Long-Term Development				
<p>Mitigation measures to mitigate significant traffic and transit impacts to less than significant levels could include but not be limited to:</p> <ul style="list-style-type: none"> Roadway widening to provide for additional travel lane capacity; Restriping to provide for additional travel lanes; Implementation of tow-away restrictions to provide for additional travel lane capacity; Signal timing changes to reallocate green time to approaches experiencing high delays; Implementation of Transportation Demand Management Programs; Financial contributions to SFMTA to cover the cost of providing additional F-Market & Wharves historic streetcar and/or planned E-Embarcadero service; and Financial Contributions to SFgo, SFMTA's Integrated Transportation Management System to install changeable message signs, video cameras, and other traffic control devices. 	SFMTA; America's Cup Event Authority or successors	To be determined during project-level environmental review; measures to be reviewed and approved by San Francisco Planning Department / ERO	San Francisco Planning Department / ERO	To be determined during project-level environmental review

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<p>Mitigation Measure M-LT-NOa: Mitigation of Noise from Long-Term Development on Port Properties</p> <p><i>Noise Controls During Construction.</i> The following practices shall be incorporated into the construction contract agreement documents to be implemented by the construction contractor:</p> <ul style="list-style-type: none"> • Provide enclosures and mufflers for stationary equipment, shroud or shield impact tools, and install barriers around particularly noisy activities at the construction sites so that the line of sight between the construction activities and nearby sensitive receptor locations is blocked; • Use construction equipment with lower noise emission ratings whenever possible, particularly for air compressors; • Provide sound-control devices on equipment no less effective than those provided by the manufacturer; • Locate stationary equipment, material stockpiles, and vehicle staging areas as far as practicable from sensitive receptor locations; • Prohibit unnecessary idling of internal combustion engines; and • Require applicable construction-related vehicles and equipment to use designated truck routes to travel to and from the project sites. <p><i>Pile Driving Noise-Reducing Techniques and Muffling Devices.</i> The project sponsors shall require the construction contractor to use noise-reducing pile-driving techniques if nearby structures are subject to pile-driving noise and vibration. These techniques shall include installing intake and exhaust mufflers on pile-driving equipment, vibrating piles into place when feasible, and installing shrouds around the pile-driving hammer where feasible.</p> <p>Construction contractors shall be required to use construction equipment with state-of-the-art noise shielding and muffling devices. In addition, at least 48 hours prior to pile-driving activities, the project sponsors shall notify building owners and occupants within 500 feet of the project site of the dates, hours, and expected duration of such activities.</p>	<p>America's Cup Event Authority or successors; contractors</p>	<p>Provisions of entire measures shall be incorporated into contract agreement documents prior to execution; copies of documents shall be provided to the Port of San Francisco and Planning Department / ERO; measures shall be implemented during construction</p>	<p>San Francisco Planning Department and ERO</p>	<p>Upon completion of construction activities</p>

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Mitigation Measure M-LT-NOa: Mitigation of Noise from Long-Term Development on Port Properties (cont.)				
<p><i>Pre-Construction Assessment to Minimize Structural Pile Driving Vibration Impacts to Adjacent Buildings and Structures and Vibration Monitoring.</i> The project sponsors shall consult with the Port's Chief Harbor Engineer and if recommended by the Port engage a qualified geotechnical engineer to conduct a pre-construction assessment of existing subsurface conditions and the structural integrity of nearby historic structures subject to pile-driving activity before a Port Building Permit is issued. If recommended by the Port or the geotechnical engineer, for structures or facilities within 60 feet of pile-driving activities, the project applicant shall require groundborne vibration monitoring of nearby historic structures. Such methods and technologies shall be based on the specific conditions at the construction site such as, but not limited to, the pre-construction surveying of potentially affected historic structures and underpinning of foundations of potentially affected structures, as necessary.</p> <p>The pre-construction assessment shall include a monitoring program to detect ground settlement or lateral movement of structures in the vicinity of pile-driving activities. Monitoring results shall be submitted to the Port's Chief Harbor Engineer. In the event of unacceptable ground movement, as determined by the Chief Harbor Engineer, all impact work shall cease and corrective measures shall be implemented to minimize the risk to the subject, or adjacent, historic structures.</p>	America's Cup Event Authority or successors; geotechnical engineer	If recommended, pre-construction assessment shall occur prior to issuance of Port building permits; monitoring program and results shall be submitted to Port engineer and San Francisco Planning Department / ERO	Port of San Francisco; San Francisco Planning Department / ERO	After completion of construction activities
<p><i>Stationary Operational Noise Sources.</i> All utility and industrial stationary noise sources (e.g., pump stations, electric substation equipment, etc.) shall be located away from noise-sensitive receptors, be enclosed within structures with adequate setback and screening, be installed adjacent to noise-reducing shields, or constructed with some other adequate noise attenuating features to achieve acceptable regulatory noise standards for industrial uses as well as to achieve acceptable levels at the property lines of nearby residences or other sensitive uses, as determined by the San Francisco Land Use Compatibility Guidelines for Community Noise. Once the stationary noise sources have been installed, noise levels shall be monitored to ensure compliance with local noise standards. If stationary noise sources exceed the applicable noise standards, an acoustical engineer shall be retained by the project sponsors to install additional noise attenuation measures in order to meet the applicable noise standards.</p>	America's Cup Event Authority and successors	Construction specifications shall be submitted to the San Francisco Planning Department / ERO and Port of San Francisco prior to construction. Monitoring shall take place after construction	Port of San Francisco and San Francisco Planning Department / ERO	Considered complete after completion of monitoring and any applicable noise attenuation measures

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Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
Mitigation Measure M-LT-NOB: Mitigation of Interior and Exterior Noise from New Residential Development of Seawall Lot 330				
For new residential development located along streets with noise levels above 75 dBA Ldn, the Planning Department shall require the following:	America's Cup Event Authority or successors	Prior to completion of project-level environmental review	San Francisco Planning Department and ERO	Upon completion of Environmental Review
1. The Planning Department shall require the preparation of an analysis that includes, at a minimum, a site survey to identify potential noise-generating uses within two blocks of the project site, and including at least one 24-hour noise measurement (with maximum noise level readings taken at least every 15 minutes), prior to completion of the environmental review. The analysis shall demonstrate with reasonable certainty that Title 24 standards, where applicable, can be met, and that there are no particular circumstances about the proposed project site that appear to warrant heightened concern about noise levels in the vicinity. Should such concerns be present, the Department may require the completion of a detailed noise assessment by person(s) qualified in acoustical analysis and/or engineering prior to the first project approval action, in order to demonstrate that acceptable interior noise levels consistent with those in the Title 24 standards can be attained; and				
2. To minimize effects on development in noisy areas, for new residential uses, the Planning Department shall, through its building permit review process, in conjunction with noise analysis required above, require that open space required under the Planning Code for such uses be protected, to the maximum feasible extent, from existing ambient noise levels that could prove annoying or disruptive to users of the open space. Implementation of this measure could involve, among other things, site design that uses the building itself to shield on-site open space from the greatest noise sources, construction of noise barriers between noise sources and open space, and appropriate use of both common and private open space in multi-family dwellings, and implementation would also be undertaken consistent with other principles of urban design.	America's Cup Event Authority or successors	Site plans displaying protection of open spaces from ambient noise levels shall be submitted to the Planning Department during the permit review process	San Francisco Planning Department	Upon completion of construction
Mitigation Measure M-LT-AQ: Future Long-Term Development Air Quality Mitigation				
Motor Vehicle Trip Reduction. Potential operational criteria pollutant impacts identified for Piers 30-32 are based on default trip generation numbers associated with land uses embedded in emissions models used by the BAAQMD. These trip generation estimates do not reflect the high availability of transit in San Francisco or the City's Transit First Program. This potential impact may be mitigated by existing efforts of the City to reduce vehicle travel and may be further mitigated by implementation of transportation demand measures. Transportation demand management strategies that may be incorporated as mitigation include those identified in Section 5.6, Transportation and Circulation, of this EIR.	SFMTA; America's Cup Event Authority or successors	To be determined during project-level environmental review; measures to be reviewed and approved by San Francisco Planning Department / ERO	San Francisco Planning Department / ERO	To be determined during project-level environmental review

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Mitigation Measure M-LT-AQ: Future Long-Term Development Air Quality Mitigation (cont.)				
<i>Construction Criteria Pollutant and Health Risk Controls.</i> Criteria pollutant emissions from construction activities may include use of Tier 3 and Tier 4 construction equipment, which will be more widely available in future years.	America's Cup Event Authority or successors	To be determined during project-level environmental review; measures to be reviewed and approved by San Francisco Planning Department / ERO	San Francisco Planning Department / ERO	To be determined during project-level environmental review
<p>Appropriate mitigation measures shall be identified to incorporate into the construction specifications to reduce construction vehicle emissions. Examples of mitigation measures that might be incorporated into construction specifications could include the following:</p> <ul style="list-style-type: none"> For projects between 2011 and 2015, use Tier 3 equipment with best available control technology where feasible. For projects conducted after 2015, use Tier 4 equipment or interim Tier 4 equipment equipped with best available control technology where such equipment exists. Use temporary power provided by the local utility provide instead of diesel generators; where it is not possible to plug into the electric grid, use Tier 3 diesel generators and air compressors. Use concrete batched from local plants to limit concrete trucks' travel time and the amount of diesel exhaust emitted. Minimize idling times by either shutting equipment and vehicles off when not in use or limiting the maximum idling time to 5 minutes or less (as required by the California airborne toxics control measure, Title 13, Section 2485 of California Code of Regulations [CCR]). Provide clear signage of idling rules for construction workers at all access points. Use on-road haul trucks model year 2007 or later. Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Have all equipment checked by a certified mechanic to determine that equipment is running in proper condition prior to operation. 	America's Cup Event Authority or successors	<p>Measures shall be incorporated into construction specifications, copies of which shall be provided to the Port of San Francisco and San Francisco Planning Department; specifications shall be implemented during construction</p>	Port of San Francisco and San Francisco Planning Department / ERO	Considered complete upon completion of construction

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Mitigation Measure M-LT-AQ: Future Long-Term Development Air Quality Mitigation (cont.)				
<p><i>Operational Risk and Hazard Reduction For New Stationary Sources.</i> Reduction in operational risks and hazards from new stationary sources (namely required emergency/standby generators) may be reduced by implementation of best available control technology for toxic air contaminants (TBACT) on new stationary sources, which is required for all new stationary sources that would exceed the threshold cancer risk increase of 10 in one million. To the extent feasible, generators with Tier 4 compliant engines may be implemented to achieve a reduction in DPM emissions of 80 to 90 percent.</p> <p><i>Operational Risk and Hazards for New Sensitive Receptors.</i> For the potential operational impacts on residents of the proposed dwelling units at Seawall Lot 330, available mitigation may include building design and ventilation requirements. Article 38 of the San Francisco Health Code requires that proposed residential projects located near high-volume roadways be subject to air quality modeling conducted to determine if annual average concentrations of PM_{2.5} from roadway sources within 500 feet of a project site would exceed a concentration of 0.2 micrograms per cubic meter (annual average). If this standard is exceeded, Article 38 requires that the project applicant design the project to minimize air pollutants indoors or install a filtered air supply system, with high-efficiency filters. An example of such requirements may include the following:</p> <p>The project sponsor shall submit a ventilation plan for the proposed buildings. The ventilation plan shall show that the building ventilation systems remove at least 80 percent of the PM_{2.5} pollutants from habitable areas. The ventilation system shall be designed by an engineer certified by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE). The engineer shall provide a written report documenting that the system offers the best available technology to minimize outdoor to indoor transmission of air pollution. In addition to installation of an air filtration system, the project sponsor shall present a plan that ensures ongoing maintenance for the ventilation and filtration systems. The project sponsor shall also ensure the disclosure to buyers and renters regarding the findings of the analysis and inform occupant's proper use of any installed air filtration system.</p>	America's Cup Event Authority or successors	To be determined during project-level environmental review	To be determined during project-level environmental review	To be determined during project-level environmental review

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Mitigation Measure M-LT-B1a: Long-Term Development Mitigation for Upland Biological Resources				
<p><i>Pre-project Surveys for Nesting Birds.</i> Pre-project surveys shall be conducted by a qualified biologist for nesting birds between February 1st and August 15th if ground disturbance or tree removal is scheduled to take place during that period. If bird species protected under the Migratory Bird Treaty Act (MBTA) or the California Fish and Game Code are found to be nesting in or near any work area, an appropriate no-work buffer zone (e.g., 100 feet for songbirds) shall be designated by the biologist. Depending on the species involved, input from the California Department of Fish and Game (CDFG) and/or the U.S. Fish and Wildlife Service (USFWS) Division of Migratory Bird Management may be warranted. As recommended by the biologist, no activities shall be conducted within the no-work buffer zone that could disrupt bird breeding. Outside of the breeding season (August 16 – January 31), or after young birds have fledged, as determined by the biologist, work activities may proceed.</p>	America's Cup Event Authority or successors; biologist	Surveys shall be conducted prior to demolition or construction and submitted to the Port of San Francisco and the Department for review	California Department of Fish and Game, US Fish and Wildlife Service; San Francisco Planning Department/ERO and Port of San Francisco	Considered complete upon completion of construction
<p><i>Minimizing Disturbance to Bats.</i> Removal of trees or demolition of buildings showing evidence of bat activity shall occur during the period least likely to impact the bats as determined by a qualified bat biologist (generally between August 15 and April 15 for winter hibernacula and February 15 and October 15 for maternity roosts). If active day or night roosts are found, the bat biologist shall take actions to make such roosts unsuitable habitat prior to tree removal or building demolition. A no-disturbance buffer shall be created around active bat roosts being used for maternity or hibernation purposes at a distance to be determined in consultation with CDFG. Bat roosts initiated during construction are presumed to be unaffected, and no buffer would be necessary.</p>	America's Cup Event Authority or successors; biologist	Surveys shall be conducted prior to demolition or construction and submitted to the Port of San Francisco and the Department for review	California Department of Fish and Game, US Fish and Wildlife Service; San Francisco Planning Department/ERO and Port of San Francisco	Considered complete upon completion of construction
<p><i>Minimizing Bird Strikes.</i></p> <p><i>Windows and Landscaping.</i> Prior to the issuance of the first building permit for each building in the proposed project, the project sponsor shall have a qualified biologist experienced with bird strikes review and approve the design of the building to ensure that it sufficiently minimizes the potential for bird strikes. The Port may consult with resource agencies such as the California Department of Fish and Game or others, as it deems appropriate.</p> <p>The building developer shall provide to the Port a written description of the measures and features of the building design that are intended to address potential impacts on birds. Building developers are encouraged to coordinate with the Port early in the design process regarding design features intended to minimize bird strikes. The design shall include some of the following measures or measures that are equivalent to, but not</p>	America's Cup Event Authority or successors; biologist	Biologist approval of building designs, written description of bird strike measures, lighting specifications, and public information campaign must be submitted to Port of San Francisco and/or San Francisco Planning Department prior to the issuance of a building permit; measures shall be implemented during construction	Port of San Francisco	Considered complete upon completion of construction

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<p>Mitigation Measure M-LT-Bla: Long-Term Development Mitigation for Upland Biological Resources (cont.)</p> <p>necessarily identical to, those listed below, as new, more effective technology for addressing bird strikes may become available in the future:</p> <ul style="list-style-type: none"> • Employ design techniques that create "visual noise" via cladding or other design features that make it easy for birds to identify buildings as such and not mistake buildings for open sky or trees; • Decrease continuity of reflective surfaces using "visual marker" design techniques, which techniques may include: <ul style="list-style-type: none"> - Patterned or fritted glass, with patterns at most 28 centimeters apart, - One-way films installed on glass, with any picture or pattern or arrangement that can be seen from the outside by birds but appear transparent from the inside, - Geometric fenestration patterns that effectively divide a window into smaller panes of at most 28 centimeters, and/or - Decals with patterned or abstract designs, with the maximum clear spaces at most 28 centimeters square. • Up to 40 feet high on building facades facing the shoreline, decrease reflectivity of glass, using design techniques such as plastic or metal screens, light-colored blinds or curtains, frosting of glass, angling glass towards the ground, UV-A glass, or awnings and overhangs; • Eliminate the use of clear glass on opposing or immediately adjacent faces of the building without intervening interior obstacles such that a bird could perceive its flight path through the glass to be unobstructed; • Mute reflections in glass using strategies such as angled glass, shades, internal screens, and overhangs; and • Place new landscapes sufficiently away from glazed building facades so that no reflection occurs. Alternatively, if planting of landscapes near a glazed building façade is desirable, situate trees and shrubs immediately adjacent to the exterior glass walls, at a distance of less than 3 feet from the glass. Such close proximity will obscure habitat reflections and will minimize fatal collisions by reducing birds' flight momentum. 				

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<p>Mitigation Measure M-LT-B1a: Long-Term Development Mitigation for Upland Biological Resources (cont.)</p> <p><i>Lighting.</i> The project sponsor shall similarly ensure that the design and specifications for buildings implement design elements to reduce lighting usage, change light direction, and contain light. These include, but are not limited to, the following considerations:</p> <ul style="list-style-type: none"> • Avoid installation of lighting in areas where not required for public safety; • Examine and adopt alternatives to bright, all-night, floor-wide lighting when interior lights would be visible from the exterior or exterior lights must be left on at night, including: • Installing motion-sensitive lighting, • Installing task lighting, • Installing programmable timers, and • Installing fixtures that use lower-wattage, sodium, and blue-green lighting. • Install strobe or flashing lights in place of continuously burning lights for obstruction lighting. • Use rotating beams instead of continuous light; and • Where exterior lights are to be left on at night, install fully shielded lights to contain and direct light away from the sky, as illustrated in the City of Toronto's Bird Friendly Building Guidelines. <p><i>Antennae, Monopole Structures, and Rooftop Elements.</i> The Port shall ensure, as a condition of approval for every building permit, that buildings minimize the number of and co-locate rooftop-antennas and other rooftop equipment, and that monopole structures or antennas on buildings, in open areas, and at sports and playing fields and facilities do not include guy wires.</p> <p><i>Educating Residents and Occupants.</i> The Port shall ensure, as a condition of approval for every building permit, that the permit applicant agrees to provide educational materials to building tenants and occupants, hotel guests, and residents encouraging them to minimize light transmission from windows, especially during peak spring and fall migratory periods, by turning off unnecessary lighting and/or closing window coverings at night. The Port shall review and approve the educational materials prior to building occupancy.</p>				

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Mitigation Measure M-LT-B1a: Long-Term Development Mitigation for Upland Biological Resources (cont.)				
<i>Documentation.</i> The project sponsor and/or Port shall document undertaking the activities described in this mitigation measure and maintain records that include, among others, the written descriptions provided by the building developer of the measures and features of the design for each building that are intended to address potential impacts on birds, and the recommendations and memoranda prepared by the qualified biologist experienced with bird strikes who reviews and approves the design of any proposed projects to ensure that they sufficiently minimize the potential for bird strikes.				
Mitigation Measure M-LT-B1b: Long-Term Development Mitigation for Marine Biological Resources				
Dock Night Lighting. Lighting on all temporary and permanent docks shall minimize artificial lighting of Bay waters by using shielded, low-mounted, and low light-intensity fixtures and bulbs.	America's Cup Event Authority or successors	Lighting specifications shall be submitted to Port of San Francisco prior to construction; lighting shall be installed during construction	Port of San Francisco	Considered complete upon completion of construction
<p>Pile Driving Noise Reduction for Protection of Fish. If impact pile driving is required for construction, prior to the start of construction, the project sponsors shall develop a NMFS-approved sound attenuation monitoring plan. This plan shall provide detail on the sound attenuation system, detail methods used to monitor and verify sound levels during pile driving activities, and management practices to be taken to reduce impact hammer pile-driving sound in the marine environment to an intensity level of less than 183 dB. The sound monitoring results shall be made available to the NMFS. The plan shall incorporate but not be limited to the following best management practices (BMPs):</p> <ul style="list-style-type: none"> • Vibratory drivers shall be used for the installation of 72-inch steel pilings to the deepest depth practicable. • All piling installation using impact hammers shall be conducted between approved work windows, when the likelihood of sensitive fish species being present in the work area is minimal. • If pile installation using impact hammers must occur at times other than the approved work window, the AC34 project sponsors shall undertake formal consultation with the National Oceanic and Atmospheric Administration (NOAA), National Marine 	America's Cup Event Authority or successors	Sound attenuation monitoring plan shall be approved by NMFS and submitted to the Port of San Francisco and ERO prior to the start of construction; plan shall be implemented during construction	National Marine Fisheries Service, CDFG, Port of San Francisco, San Francisco Planning Department and ERO	Considered completed upon completion of pile-driving activities

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Mitigation Measure M-LT-B1b: Long-Term Development Mitigation for Marine Biological Resources (cont.)				
<ul style="list-style-type: none"> Fisheries Service (NMFS), and California Department of Fish and Game (CDFG) to address potential impacts on sensitive marine resources, especially marine mammals, and implement all requested actions to avoid impacts. If exceedance of noise thresholds established and approved by NMFS occur, a contingency plan using bubble curtains or air barrier will be implemented to attenuate sound levels to below thresholds. The hammer will be cushioned using a 12-inch thick wood cushion block during all impact hammer pile driving operations. A "soft start" technique shall be employed in all pile driving to give fish and marine mammals an opportunity to vacate the area. Vibratory hammers shall be used to the maximum extent practicable to reduce hydroacoustic effects. 	America's Cup Event Authority or successors; biological monitor	Sound attenuation monitoring plan shall be approved by NMFS and submitted to the ERO prior to the start of construction; daily surveys shall be implemented during impact pile driving;	National Marine Fisheries Service, CDFG, San Francisco Planning Department and ERO	Considered completed upon completion of in-water construction activities
<p>Pile Driving Noise Reduction for Protection of Marine Mammals. As part of the NMFS-approved sound attenuation monitoring plan required in Mitigation Measure M-B1-11b, the project sponsor shall take actions in addition to those listed in Mitigation Measure M-B1-11b to reduce the effect of underwater noise transmission on marine mammals; these actions will include at a minimum:</p> <ul style="list-style-type: none"> Establishment of a 1,600-foot (500-meter) safety zone that shall be maintained around the sound source, for the protection of marine mammals in the event that sound level are unknown or cannot be adequately predicted. Work activities shall be halted when a marine mammal enters the 1,600-foot (500-meter) safety zone and resume only after the animal has been gone from the area for a minimum of 15 minutes. Maintain sound levels below 90 dBA in air when pinnipeds (seals and sea lions) are present.¹ A NMFS-approved biological monitor will be available to conduct surveys before and during impact hammer pile driving to inspect the work zone and adjacent Bay waters for marine mammals. The monitor will be present as specified by NMFS during the impact pile-driving phases of construction. 				

¹ NMFS (National Marine Fisheries Service). 2007. *op cit*.

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<p>Mitigation Measure M-LT-B1b: Long-Term Development Mitigation for Marine Biological Resources (cont.)</p> <p><i>Invasive Marine Species Control at Port Facilities.</i> The project sponsors shall develop and implement an Invasive Species Control Plan prior to commencement of any in-water work including Port piers, wharfs, bulkheads, pile driving, and installation of temporary structures. The plan shall be prepared in consultation with the United States Coast Guard (USCG) and California State Lands Commission. Provisions of the plan shall include but not be limited to the following:</p> <ul style="list-style-type: none"> • Environmental training of construction personnel involved in the removal of pier pilings, temporary floating docks, piling suspended barges, and wave attenuators, to inform them about invasive marine species in San Francisco Bay that might be attached to removed structures • Actions to be taken to prevent the release and spread of marine invasive species, especially algal species such as Undaria and Sargasso • Procedures for the safe removal and disposal of any invasive taxa observed on the removed structures prior to disposal or reuse of pilings, docks, wave attenuators, and other features • The onsite presence of qualified marine biologists to assist the contractor in the identification and proper handling of any invasive species on removed Port equipment or materials • A post-construction report identifying what, if any, invasive species were found attached to removed equipment and materials and the treatment/handling of identified invasive species. 	America's Cup Event Authority or successors	Plan shall be prepared prior to construction. Plan, including documentation of consultation with relevant agencies, shall be provided to ERO prior to construction.	United States Coast Guard, Regional Water Quality Control Board, San Francisco Planning Department and ERO	Considered completed upon completion of construction
<p><i>Maintenance Dredging and Turbidity Minimization Measures for the Operation of the Marinas.</i> Maintenance dredging for the marinas could remove or generate sediment plumes that could impact special-status species, their habitats, and Essential Fish Habitat (EFH). To minimize this effect, the following measures shall be implemented by the Project Applicant:</p> <p>Conduct a detailed survey for special-status species, including native oysters in all suitable substrates within the marina, which includes the area between the land and breakwaters, after construction of the new breakwaters. This survey shall be conducted by a qualified biologist during the appropriate seasonal and tidal conditions. This survey</p>	America's Cup Event Authority or successors; biologist; harbor engineer	Survey, and modeling if required, shall be completed prior to issuance of building permits for marina	Port of San Francisco	Considered completed upon issuance of building permits

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Mitigation Measure M-LT-B1b: Long-Term Development Mitigation for Marine Biological Resources (cont.)				
shall occur before any construction within the proposed marina location takes place to establish a baseline condition. If determined necessary, a detailed sediment plume modeling study of the proposed marina operation shall be conducted to determine if the operations and maintenance of the marina would generate a substantial plume of sediment. This model shall include the local bathymetry and sediment information, tidal data, and detailed marina information (number and types of boats, etc). The model shall be prepared by a qualified harbor engineer (as approved by the City/Agency) with direct experience in this type of work within San Francisco Bay, prior to issuance of any permits for the construction of features directly associated with the marina.				
BMPs to Reduce Impacts of Dredging To Water Quality. BMP's established in the Long-Term Management Strategy (LTMS) for management of disposal of dredge material in San Francisco Bay are designed specifically to minimize spread of contaminants outside of dredge areas. All of these elements of the LTMS shall be applied to any proposed dredging or construction activities associated with the proposed project unless otherwise modified by the United States Army Corps of Engineers, BCDC, or San Francisco Bay Regional Water Quality Control Board in permit conditions associated with the proposed dredging activities.	America's Cup Event Authority or successors	BMP's shall be included in construction specifications and provided to the Port of San Francisco or the San Francisco Planning Department prior to issuance of building permits; BMP's shall be implemented during construction	Port of San Francisco; San Francisco Planning Department	Considered complete upon completion of construction
Work Windows to Reduce Maintenance Dredging Impacts to Fish during Operation of the Marina. Maintenance dredging for the marinas shall be conducted during designated work windows in accordance with the Long-Term Management Strategy (LTMS) to protect sensitive fish species, such as steelhead and Pacific herring.	America's Cup Event Authority or successors	Submit dredged schedule to Port for approval prior to dredging	Port of San Francisco	Ongoing
Mitigation Measure M-LT-GE: Mitigation of Hazards and Hazardous Materials Impacts from Long-Term Development on Port Properties				
The project sponsor shall conduct a site-specific geotechnical investigation for proposed developments under the direction of a geotechnical engineer prior to any new construction or reuse that would increase the load or otherwise induce settlement on long-term development sites. The investigations shall be performed to evaluate subsurface conditions and existing structural conditions at the site, and shall evaluate the potential for geological and seismic hazards including settlement, ground shaking, ground rupture, liquefaction, subsidence, slope stability, and lateral spreading.	America's Cup Event Authority or successors; geotechnical engineer	Reports shall be reviewed by Port of San Francisco or the San Francisco Planning Department and submitted to the ERO prior to issuance of building permits	Port of San Francisco and San Francisco Planning Department / ERO	Considered completed upon completion of construction

ACEA = America's Cup Event Authority
BCDC = SF Bay Conservation and Development Commission
CARB = California Air Resources Board
CDFG = California Department of Fish and Game
CDPR = California Department of Parks and Recreation
CSLC = California State Lands Commission

DBW = California Department of Boating and Waterways
EP = SF Environmental Planning
ERO = SF Environmental Review Officer
NMPF = National Marine Fisheries Service
NPS = National Park Service
OEWD = SF Office of Economic and Workforce Development

SFDPH = San Francisco Department of Public Health
SFMTA = San Francisco Municipal Transportation Agency
SFRPD = SF Recreation and Parks Department
USEPA = U.S. Environmental Protection Agency
USCG = U.S. Coast Guard
WETA = Water Emergency Transportation Authority

ATTACHMENT B-2:
LONG-TERM DEVELOPMENT MITIGATION MONITORING AND REPORTING PROGRAM
(Including the Text of the Mitigation Measures Adopted as Conditions of Approval)

Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
Mitigation Measure M-LT-CE: Mitigation of Hazards and Hazardous Materials Impacts from Long-Term Development on Port Properties (cont.) Recommendations shall be made regarding the pile and foundation requirements, seawall stability, upgrading existing foundations, seismic design, and mitigation of geologic hazards, and these recommendations shall be included in the project design.				
Mitigation Measure M-LT-HY: Water Quality Best Management Practices The project sponsor shall implement water quality best management practices (BMPs) to protect water quality as well as protected species and their habitat(s) from pollution due to fuels, oils, lubricants, and other harmful materials. BMPs for this proposed project shall follow those detailed in the San Francisco Department of Public Health Pollution Prevention Toolkit for Maritime Industries. ² Vehicles and equipment that are used during the course of a proposed project shall be fueled and serviced in a manner that will not affect federally protected species in the project area or their habitats; <ul style="list-style-type: none"> • A Spill Prevention Control and Countermeasure (SPCC) Plan shall be prepared to address the emergency cleanup of any hazardous material and will be available on site. The SPCC shall include: <ul style="list-style-type: none"> - Methods to address the emergency cleanup of any hazardous material and what materials will be available on site; - SPCC, hazardous waste, stormwater and other emergency planning requirements; - Measures to prevent spills into the Bay associated with in water fueling, if in water fueling is required on some of the construction barges. Such measures shall include: <ul style="list-style-type: none"> ■ Secondary booms and/or pads, depending upon where fueling would take place on the vessel; ■ Secondary containment on the deck of the vessel to contain the petroleum product; ■ Specifying volume of petroleum products that will be on the vessel and evaluating the potential for spills. Absorbent and cleanup materials (such as oil sorbent boom, heavy oil pads, OilDry Absorbent Floor, etc) of sufficient quantity to clean up potential spill volume shall be provided; and ■ The locations of properly permitted offsite locations where vessels will be fueled. 	America's Cup Event Authority or successors; contractor	SPCC and MMDP Plans shall be submitted to the SFDPH, Port of San Francisco and the ERO prior to construction. Plans and measures shall be in place during construction	Event Authority or contractor shall submit a Monitoring Report, detailing survey results and compliance with the specified measure, to SFDPH for approval after construction. Copies of the report shall be sent to the Port and Planning Department ERO.	Considered complete upon agency receipt of SFDPH-approved Monitoring Report

² Virginia St. Dean, San Francisco Department of Public Health, *Pollution Prevention Toolkit for Maritime Industries*, prepared for: California Department of Toxic Substances Control Under Contract #08-T3625-A2, January 2011

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LONG-TERM DEVELOPMENT MITIGATION MONITORING AND REPORTING PROGRAM
(Including the Text of the Mitigation Measures Adopted as Conditions of Approval)

Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>Mitigation Measure M-LT-HY: Water Quality Best Management Practices (cont.)</p> <ul style="list-style-type: none"> In addition, fueling of equipment shall occur using proper fuel transfer procedures as per U.S. Coast Guard regulations (33 CFR 156.120 and 33 CFR 155.320) and spill containment and the fueling location shall be inspected after fueling to document that no spills have occurred. Any spills shall be cleaned up immediately using spill response equipment as identified in the SPCC Plan. Well-maintained equipment shall be used to perform the construction work, and, except in the case of a failure or breakdown, equipment maintenance shall be performed off site. Equipment shall be inspected daily by the operator for leaks or spills. If leaks or spills are encountered, the source of the leak shall be identified, leaked material will be cleaned up, and the cleaning materials shall be collected and will be properly disposed; The project sponsor shall exercise every reasonable precaution to protect listed species, their habitats, and Essential Fish Habitat from construction by-products and pollutants such as demolition debris, construction chemicals, fresh cement, saw-water, or other deleterious materials. Construction will be conducted from both land and water, and care shall be used by equipment operators to control debris so that it does not enter the Bay. A Materials Management Disposal Plan (MMDP) shall be prepared to prevent any debris from falling into the Bay during construction to the maximum extent practicable. The measures identified in the MMDP shall be based on the Best Available Technology, and will include, but not be limited to, the following measures: <ul style="list-style-type: none"> - During construction, the barges performing the work shall be moored in a position to capture and contain the debris generated during any sub-structure or in-water work. In the event that debris does reach the Bay, personnel in workboats within the work area shall immediately retrieve the debris for proper handling and disposal. All debris shall be disposed of at an authorized upland disposal site; - Measures to ensure that fresh cement or concrete shall not be allowed to enter San Francisco Bay. Construction waste shall be collected and transported to an authorized upland disposal area, and per federal, state, and local laws and regulations; 				

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ATTACHMENT B- 2:
LONG-TERM DEVELOPMENT MITIGATION MONITORING AND REPORTING PROGRAM
(Including the Text of the Mitigation Measures Adopted as Conditions of Approval)

Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>Mitigation Measure M-LT-HY: Water Quality Best Management Practices (cont.)</p> <ul style="list-style-type: none"> - All hazardous material shall be stored upland in storage trailers and/or shipping containers designed to provide adequate containment. Short-term laydown of hazardous materials for immediate use shall be permitted with the same anti-spill precautions; - All construction material, wastes, debris, sediment, rubbish, trash, fencing, etc., shall be removed from the site once the proposed project is completed and transported to an authorized disposal area, in compliance with applicable federal, state, and local laws and regulations; - Construction material shall be covered every night and during any rainfall event (if there is one); - Construction crews shall reduce the amount of disturbance within the project site to the minimum necessary to accomplish the project; and - Measures to prevent saw water from entering the Bay. • The MMDP shall be submitted to the RWQCB for review and approval. 				
<p>Mitigation Measure M-LT-HZ: Mitigation of Hazards and Hazardous Materials Impacts from Long-Term Development on Port Properties</p> <p>The project sponsor shall ensure that any building planned for demolition or renovation is surveyed for hazardous building materials including PCB-containing electrical equipment, fluorescent light ballasts containing PCBs or DEHP, and fluorescent light tubes containing mercury vapors. These materials shall be removed and properly disposed of prior to the start of demolition or renovation. Old light ballasts that are removed during renovation shall be evaluated for the presence of PCBs. In the case where the presence of PCBs in the light ballast cannot be verified, the light ballast shall be assumed to contain PCBs and handled and disposed of as such, according to applicable laws and regulations. Any other hazardous building materials identified either before or during demolition or renovation shall be abated according to federal, state, and local laws and regulations.</p>	America's Cup Event Authority or successors	During construction	Event Authority or successor shall submit a Monitoring Report, detailing survey results and compliance with the specified measure, to SFDPH for approval after construction. Copies of the report shall be sent to the Planning Department ERO	Considered complete upon agency receipt of SFDPH-approved Monitoring Report

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ATTACHMENT B3

San Francisco Planning Department Standard
Mitigation: Archeological Testing, Monitoring,
Data Recovery and Reporting



ARCHEOLOGICAL MITIGATION MEASURE III (Testing)

Based on a reasonable presumption that archeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of an archaeological consultant from the pool of qualified archaeological consultants maintained by the Planning Department archaeologist. The archeological consultant shall undertake an archeological testing program as specified herein. In addition, the consultant shall be available to conduct an archeological monitoring and/or data recovery program if required pursuant to this measure. The archeological consultant's work shall be conducted in accordance with this measure at the direction of the Environmental Review Officer (ERO). All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the direction of the ERO, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to reduce to a less than significant level potential effects on a significant archeological resource as defined in CEQA Guidelines Sect. 15064.5 (a)(c).

Consultation with Descendant Communities: On discovery of an archeological site¹ associated with descendant Native Americans or the Overseas Chinese an appropriate representative² of the descendant group and the ERO shall be contacted. The representative of the descendant group shall be given the opportunity to monitor archeological field investigations of the site and to consult with ERO regarding appropriate archeological treatment of the site, of recovered data from the site, and, if applicable, any interpretative treatment of the associated archeological site. A copy of the Final Archaeological Resources Report shall be provided to the representative of the descendant group.

Archeological Testing Program. The archeological consultant shall prepare and submit to the ERO for review and approval an archeological testing plan (ATP). The archeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archeological resource(s) that potentially could be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing. The purpose of the archeological testing program will be to determine to the extent possible the presence or absence of archeological resources and to identify and to evaluate whether any archeological resource encountered on the site constitutes an historical resource under CEQA.

¹ By the term "archeological site" is intended here to minimally included any archeological deposit, feature, burial, or evidence of burial.

² An "appropriate representative" of the descendant group is here defined to mean, in the case of Native Americans, any individual listed in the current Native American Contact List for the City and County of San Francisco maintained by the California Native American Heritage Commission and in the case of the Overseas Chinese, the Chinese Historical Society of America.

At the completion of the archeological testing program, the archeological consultant shall submit a written report of the findings to the ERO. If based on the archeological testing program the archeological consultant finds that significant archeological resources may be present, the ERO in consultation with the archeological consultant shall determine if additional measures are warranted. Additional measures that may be undertaken include additional archeological testing, archeological monitoring, and/or an archeological data recovery program. If the ERO determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor either:

- A) The proposed project shall be re-designed so as to avoid any adverse effect on the significant archeological resource; or
- B) A data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.

Archeological Monitoring Program. If the ERO in consultation with the archeological consultant determines that an archeological monitoring program shall be implemented the archeological monitoring program shall minimally include the following provisions:

- The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils disturbing activities commencing. The ERO in consultation with the archeological consultant shall determine what project activities shall be archeologically monitored. In most cases, any soils- disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the risk these activities pose to potential archaeological resources and to their depositional context;
- The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource;
- The archeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with project archeological consultant, determined that project construction activities could have no effects on significant archeological deposits;
- The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis;
- If an intact archeological deposit is encountered, all soils-disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction activities_and equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile driving activity may affect an archeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, and present the findings of this assessment to the ERO.

Whether or not significant archeological resources are encountered, the archeological consultant shall submit a written report of the findings of the monitoring program to the ERO.

Archeological Data Recovery Program. The archeological data recovery program shall be conducted in accord with an archeological data recovery plan (ADRP). The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP. The archeological consultant shall submit a draft ADRP to the ERO. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical.

The scope of the ADRP shall include the following elements:

- *Field Methods and Procedures.* Descriptions of proposed field strategies, procedures, and operations.
- *Cataloguing and Laboratory Analysis.* Description of selected cataloguing system and artifact analysis procedures.
- *Discard and Deaccession Policy.* Description of and rationale for field and post-field discard and deaccession policies.
- *Interpretive Program.* Consideration of an on-site/off-site public interpretive program during the course of the archeological data recovery program.
- *Security Measures.* Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities.
- *Final Report.* Description of proposed report format and distribution of results.
- *Curation.* Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.

Human Remains and Associated or Unassociated Funerary Objects. The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal laws. This shall include immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC) who shall appoint a Most Likely Descendant (MLD) (Pub. Res. Code Sec. 5097.98). The archeological consultant, project sponsor, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (CEQA Guidelines. Sec. 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.

Final Archeological Resources Report. The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any

discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.

Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Environmental Planning division of the Planning Department shall receive one bound, one unbound and one unlocked, searchable PDF copy on CD of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest in or the high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than that presented above.

ATTACHMENT 2B

San Francisco Planning Department Standard
Mitigation: Review of New Construction within
the Port of San Francisco Embarcadero
Historic District for Compliance with the
Secretary's Standards



MEMORANDUM

October 20, 2004

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Kimberly Brandon
Hon. Sue Bierman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Port of San Francisco Embarcadero National Register Historic District Nomination

DIRECTOR'S RECOMMENDATION: APPROVE THE HISTORIC DISTRICT NOMINATION AND AUTHORIZE STAFF TO SUBMIT IT TO THE STATE OFFICE OF HISTORIC PRESERVATION AND NATIONAL PARK SERVICE TO ACHIEVE APPROVAL OF THE LISTING OF THE PORT OF SAN FRANCISCO EMBARCADERO HISTORIC DISTRICT ON THE NATIONAL REGISTER OF HISTORIC PLACES.

Background

On September 14, 2004, the Commission held a public hearing on the proposed Port of San Francisco Embarcadero National Register Historic District, which includes the area between Pier 45 and Pier 48. The purpose of the hearing was to provide the Commission and the public an opportunity to comment on the nomination, prepared by a consultant team led by Senior Architectural Historian Michael Corbett, before it is presented to the Commission for approval and submittal to the State Office of Historic Preservation. A detailed discussion of the Historic District issues and resources, and the relationship with Port leasing and redevelopment projects, is presented in a staff memorandum to the Commission, dated September 8, 2004, which is incorporated by reference.

At the September 14, 2004 Commission meeting, two issues were raised that required further follow up work by the staff:

- 1) Pier 36 – Residents and representatives from the South Beach neighborhood and Rincon Point-South Beach Citizens Advisory Committee opposed the inclusion of Pier 36 in the Historic District as a contributing resource, citing the planning and decisions made to demolish this pier to construct the Brannan Street Wharf park; and

This Print Covers Calendar Item No. 6A

- 2) Pier 35-45 Bulkhead Wharf – John Sanger, of Sanger & Olson, representing the interests of Pier 39 Limited Partnership and Blue & Gold Fleet, presented his clients' opposition to the inclusion of Bulkhead Wharf Sections A, B and 1 in the Historic District, given the substantial changes, new building and alterations in this area as part of the Pier 39, Aquarium of the Bay, and Blue & Gold Fleet developments.

Staff has worked with these stakeholders, the preservation community, and staff of the San Francisco Bay Conservation and Development Commission (BCDC) to address and resolve these issues, as described further below. In addition, this staff report addresses other developments regarding Bulkhead Wharf Section 9a, and correspondence received regarding labor history concerns.

Pier 36

In previous Port Commission and BCDC actions in 2000, and in Port Commission actions approving the Bryant Street Pier Project, the removal of Pier 36 was approved to make way for the construction of the Brannan Street Wharf Park in the South Beach waterfront. Those actions occurred prior to completion of the draft Historic District nomination which includes Pier 36 as a contributing resource to the District. While portions have collapsed and the facility is in deteriorating condition, Mr. Corbett recommended the inclusion of Pier 36 in the Historic District nomination because it represents, along with Piers 38 and 40, the earliest example of reinforced concrete pier sheds, and was one of a few rail ferry terminals along the waterfront.

As described in the earlier September 8, 2004 staff report, the removal of a National Register-eligible resource such as Pier 36 would constitute a significant adverse effect on the environment, under the California Environmental Quality Act (CEQA). This triggers the need for further CEQA environmental review to be completed before any other approvals for the Brannan Street Wharf project can be secured. Several members of the public and South Beach community commented that Pier 36 should be excluded from the Historic District nomination, believing that this would obviate the need for lengthy environmental review by the City, which could delay the demolition of the pier and in turn, the construction of the park. However, even if excluded from the District, Pier 36 would still be historically significant based on the research presented in the Historic District nomination, and thus would not avoid the requirement for further CEQA analysis.

Since then, Port staff has met with San Francisco Cruise Terminal LLC (SFCT), the developer of the Bryant Street Pier Project and construction contractor for the Brannan Street Wharf, and BCDC staff. In order for the Brannan Street Wharf project to proceed, the Port and SFCT must secure a permit from BCDC; all other required City and Port approvals for the Brannan Street Wharf have already occurred. At the request of the Port, BCDC has agreed to act as lead agency, rather than the City, to prepare the additional environmental analysis as part of its permit process. BCDC must analyze environmental impacts, mitigation measures and adopt findings as required under CEQA but, as a State agency, follows different, more streamlined procedures than those in San Francisco. The result is that the additional environmental review would be carried out with less potential to delay the Brannan Street Wharf, scheduled for completion in late 2006. This approach for meeting the additional CEQA requirements was discussed with the interested parties and the South Beach CAC, and has been accepted as the most effective solution.

Pier 35-45 Bulkhead Wharf Sections A, B & 1

At the September 14, 2004 public hearing, John Sanger presented the concerns of his clients, Pier 39 Limited Partnership and Blue & Gold Fleet regarding Bulkhead Wharf Sections A, B and 1 extend alongside the Seawall, from Pier 35 to 45 (See Map Exhibit B). Approximately three-quarters of this length are included in facilities under lease to Pier 39 and Blue & Gold. The bulkhead substructures in Sections A and 1 are proposed as contributing resources in the District, and Section B as a non-contributing resource. Section B's non-contributing status is due to the fact that it was reconstructed after 1946, but continues to provide a physical connection with adjacent historic bulkhead wharf segments and visual continuity extending to Pier 45, the northern terminus of the District.

Mr. Sanger expressed his clients' disagreement with the inclusion of any of these bulkhead wharf sections in the District. The extensive redevelopment of the area to create Pier 39 and marina, the Aquarium of the Bay, Red & White Ferry terminal at Pier 41-1/2 (now under lease to Blue & Gold Fleet), and Pier 43 public access improvements, which involved relocating a portion of the Embarcadero roadway inland, replaced most of the area's original historic character. While acknowledging that much of the pile and original bulkhead wharf substructure is still in place (the primary reason for their inclusion in the District), Mr. Sanger pointed out that the absence of any historic structures and materials at the deck surface level and above reduced the integrity of, and basis for the inclusion of these facilities in the Historic District. He stated the concern that the inclusion of this area in the Historic District would hamper future efforts by Pier 39 or Blue & Gold to repair, alter or build new structures in the area. Since the current structures and park improvements are not historic nor have any relationship with the resources or issues upon which the Historic District is based, he does not believe it appropriate to apply Secretary of Interior Standards to review future alteration and construction proposals, especially in light of BCDC, Planning Commission and Port design guidelines that are in place for this purpose. Mr. Sanger also expressed the need for revisions to the Historic District nomination report to include more details regarding the extent and type of redevelopment that has occurred in this area.

At the September 14th public hearing, Port staff gave a status report of efforts then underway to resolve this issue, acknowledging the degree of change described by Mr. Sanger. Mark Paez on behalf of the Port's Planning & Development Division outlined a proposal to identify designated areas within which Pier 39 or Blue & Gold would be allowed to propose development changes that would be accepted as consistent with the Secretary's Standards. Staff was directed to continue discussions with the interested parties in an effort to resolve this issue before returning to the Commission for action on the Historic District nomination.

Since that time, staff has worked closely with Mr. Sanger and preservation representatives to evaluate the urban design, historic preservation, public access and other policies and design criteria contained in the Waterfront Design & Access Element (WDAE) of the Waterfront Land Use Plan. There was consensus that the WDAE provides the appropriate context, scope, and design direction to shape future proposals in Bulkhead Section A, B and 1 to be appropriately designed and sensitive to the Historic District. As such, it was agreed that, for the purposes of reviewing alterations or new construction proposals affecting the deck surface level or above for Bulkhead Wharf Sections A, B and 1 only, the WDAE is equivalent to the Secretary's Standards. In those instances, the WDAE should be relied upon instead of the Secretary's Standards, because it is tailored to protect and enhance the urban design attributes specific to the San Francisco waterfront, and integrates historic preservation and BCDC public access, view and design principles. The agreement to the use of the WDAE to review

future projects in this area supercedes the staff proposal that was presented at the September 14th public hearing.

With respect to Mr. Sanger's comment that the Historic District nomination report be revised to incorporate more details regarding redevelopment and alterations that have occurred within Bulkhead Wharf Sections A, B, and 1, this will occur. Mr. Sanger has drafted this information, and the nomination report will be revised to incorporate these additional facts prior to submitting it to the State Office of Historic Preservation.

With respect to Mr. Sanger's concern regarding his clients' ability to carry out ordinary maintenance and repairs to their facilities under lease without constraint from the Historic District designation, this matter also was discussed with the preservation representatives. Even more so, this is an issue for the Port, which has maintenance responsibility for most facilities. Recognizing that ordinary maintenance and repairs have occurred throughout the life of the waterfront to meet current public and safety requirements, the Port's continued work for this purpose in the future will be recognized as consistent with the Secretary's Standards.

To memorialize these discussions and understandings in the context of approving the nomination for the Embarcadero National Register Historic District, staff developed Historic Preservation Review Guidelines which describe how certain types of conditions or activities will be reviewed within the District. The guidelines have been reviewed by the interested parties, and are attached in Exhibit A. These guidelines will be included as an Appendix in the Historic District nomination report.

Agriculture Building to Pier 22-1/2, Bulkhead Wharf Section 9a

In the September 8, 2004 Commission staff report regarding the Historic District, Port staff reported that there was one remaining unresolved issue with Mr. Corbett's recommendations regarding Bulkhead Wharf Section 9a. Section 9a, now a series of remnant piles located between the Agriculture Building and the Fire Department Station 35 at Pier 22-1/2, originally was proposed as a non-contributing resource to the Historic District. The Port staff did not agree with this recommendation given the extensive deterioration and loss of materials of this facility, including the entire bulkhead wharf deck. After further review, Mr. Corbett has concurred that Bulkhead Section 9a should be discussed in a separate chapter of the nomination report regarding waterfront piers and structures that have been lost, and is no longer proposed for inclusion in the Historic District. The nomination report will be revised accordingly.

Labor History

At the September 14th public hearing, Tim Kelley expressed his concern that more information and research is needed regarding waterfront labor history. Mr. Kelley sent a letter to the Port, dated August 27, 2004, outlining a proposal for funding and carrying out more labor history research, separate from that produced as part of the Historic District nomination report.

After conversations between Mr. Kelly and staff, the Port responded, describing a modified process to develop additional labor history research, to be carried out by developers as part of pre-development studies for new historic rehabilitation projects. Both letters are presented in Exhibit C. While further discussions may result in refinements and modifications regarding the details of this effort, staff agrees with the desire and need to expand the Port's and public's understanding and appreciation of

waterfront labor history. Given the virtually unlimited research potential of this topic, such efforts will require a clear scope of work that defines the type and level of detail of the research to be completed. The information gathered should be educational to the general public and should inform the design and development of historic rehabilitation projects. Port staff has suggested that the preservation community could play an important role in defining parameters for such research in advance, which can be included in development project RFP's.

It is recognized that waterfront labor history is discreet from architectural history research and may warrant a separate consultant to conduct the research. However, the completion of this work should be coordinated with the overall project schedule to ensure that information is available at a point when it can be considered in the project design process, and/or the development of interpretive exhibits or materials that may be created in new projects.

Conclusion

Much effort has been expended to develop the Port of San Francisco Embarcadero National Register Historic District nomination report. Not only is it the most comprehensive and detailed review of the Port's extraordinary collection of waterfront resources and history, it has involved a public process with BCDC, historic preservation experts and waterfront stakeholders in the South Beach and Telegraph Hill communities, as well as Port tenant and Port Advisory Groups. The Historic District has been evaluated not only for its documentary content, but the implications for future property management, leasing and development projects.

In summary, the Historic District nomination will be revised further for the following purposes described below, prior to submitting it to the State for further review. That process will consist of review by staff of the State Office of Historic Preservation and the National Park Service, approval action by the State Historical Resources Commission, at which point the nomination will be forwarded to the National Park Service for listing on the National Register of Historic Places.

- To address public concerns and increase certainty regarding how the Historic District will be interpreted, and the Secretary of the Interior's Standards applied to certain types of future projects within the District, including ordinary maintenance and repairs, and alterations within the Pier 35-45 area, the Port and community have worked together to develop Historic Preservation Review Guidelines, as presented in Exhibit A. These review guidelines will be included as an appendix in the nomination report.
- The discussion regarding Bulkhead Wharf 9a between the Agriculture Building and Pier 22-1/2 will move to the Section of the nomination describing resources that have been lost, rather than proposing it as a non-contributing resource in the District
- Factual and typographical corrections will be incorporated, including those describing in more detail the nature and extent of alteration and contemporary development in the Pier 35-45 area, and corrections to ensure internal consistency within the report.

In response to waterfront labor history concerns, staff recommends that developers of future historic rehabilitation projects be required to include consultant-generated research of waterfront labor history information pertinent to the project site and vicinity. This will enable the Port to expand knowledge and information in this area as new opportunities emerge.

The Embarcadero National Register Historic District is a milestone accomplishment for the Port's ongoing efforts to preserve as many of its historic piers as possible and adapt them to new uses that continue the renaissance of The Embarcadero. The piers and bulkhead buildings and Herb Caen Way promenade have become icons for the City and establish the foundation of the Historic District. San Franciscans have a strong attachment to these waterfront resources. This, combined with the financial and regulatory advantages afforded historic rehabilitation projects that meet Secretary of Interior Standards, creates the Port's best opportunity to realize a mix of activities and amenities that invite the public to this extraordinary urban waterfront, and which celebrates San Francisco's unique history and identity.

Submitted by: Diane Oshima
Assistant Deputy Director, Waterfront Planning

**PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 04-89

- WHEREAS, In 2000, the Port and San Francisco Bay Conservation and Development Commission (BCDC) approved amendments to their respective plans that established a comprehensive set of policies to guide waterfront development, including seismic retrofit and rebuilding of piers for major redevelopment projects on piers, integrated with removal of specified piers and the creation of new major open space parks and public access along The Embarcadero waterfront, north of China Basin; and
- WHEREAS, As part of this package of plan amendments, the Port committed to prepare a nomination for an Embarcadero National Register Historic District for listing on the National Register of Historic Places; and
- WHEREAS, In December 2001, the Port hired URS Corporation to prepare the historic district nomination report; and
- WHEREAS, The draft nomination report, completed in April 2004, is comprehensive in scope, addressing the physical waterfront historic resources from Pier 45 to Pier 48; the development and governance of the Port by the State Board of Harbor Commissioners; engineering and technological changes that shaped the waterfront's development; and labor history during the period of historic significance from 1878 to the end of World War II in 1946; and
- WHEREAS, The Port and URS sought and received substantial advice and consultation on the extensive research generated in this report with staff of BCDC, the State Office of Historic Preservation, National Park Service, and consultation with San Francisco Architectural Heritage and representatives of the local preservation community; and
- WHEREAS, The boundaries of the Embarcadero National Register Historic District include Contributing and Non-contributing resources, including the Seawall, bulkhead wharf segments, and piers, pier sheds, bulkhead buildings, and other waterfront structures as further detailed in the Historic District nomination report; and
- WHEREAS, The nomination report identifies Pier 36, Pier 40, 22 sections of the bulkhead wharf and four waterfront café structures as contributing resources in the historic district, although they had not been identified in previous historic resource surveys; and
- WHEREAS, Port and BCDC approved plans call for the removal of Pier 36 and the adjacent bulkhead wharf for the development of the Brannan Street Wharf public park in South Beach which, because these facilities have been defined as contributing resources in the Historic District nomination, are subject to further environmental review to comply with the California Environmental Quality Act (CEQA); and

- WHEREAS, The Port remains committed to development of the Brannan Street Wharf, and is coordinating with BCDC and San Francisco Cruise Terminal LLC to ensure that the additional CEQA environmental analysis is completed as part of BCDC's permit process required to be completed before construction of the Brannan Street Wharf park commences, which construction is scheduled for completion in late 2006; and
- WHEREAS, The Embarcadero National Register Historic District will greatly benefit Port historic rehabilitation projects by providing access to the Federal Rehabilitation Tax Credit program, which provides developers with a source of funds of up to 20% of the costs of historic rehabilitation, and thus benefit the Port through improved base and participation rent for historic rehabilitation projects, such as occurred for the Ferry Building and Pier 1 developments, and further benefits such projects by providing developers more flexibility than for non-historic buildings in complying with public trust requirements, as may be interpreted and applied by the State Lands Commission; and
- WHEREAS, As part of the pre-development phase of historic rehabilitation projects, developers hire historic consultants to conduct site-specific historic architectural research which scope, as part of future development projects, will be expanded to include qualified historic consultant-generated research that will provide information about the waterfront labor history of the project site and vicinity; and
- WHEREAS, The creation of the Embarcadero National Register Historic District will not result in a change in the status of any Port tenant leases and continues to allow tenants or the Port to propose alterations to historic resources, which alterations will continue to be subject to Port review through the Port building permit process and, as applicable, BCDC or other regulatory requirements, to ensure they comply with the Secretary of the Interior Standards for Rehabilitation ("Secretary Standards") and applicable environmental review requirements under CEQA and applicable federal review requirements when the project requires decisions by federal agencies; and
- WHEREAS, Ordinary maintenance and repair of the Port's historic resources as further described and defined in Exhibit A has been, and will continue to be, carried out and will be recognized as consistent with the Secretary of the Interior Standards; and
- WHEREAS, Bulkhead Wharf Section A, B and 1, located between Pier 35 and 45, have undergone significant alterations and new construction as part of the redevelopment in the area to create Pier 39 and marina, Aquarium of the Bay, the Red & White Ferry Terminal facility at Pier 41½, now under lease to Blue & Gold Fleet, and public access and landscaping improvements associated with those developments, which alterations warrant special consideration regarding the design standards that should be used to review future alteration and construction proposals in these bulkhead wharf sections; and
- WHEREAS, The unique opportunities and developer incentives that will be available under the Embarcadero National Register Historic District are critically important to attract the private investment required to preserve and rehabilitate as many of the District historic resources as possible; now, therefore, be it

RESOLVED, The Embarcadero National Register Historic District provides formal, national recognition of one of the last and most intact collection of piers, bulkhead buildings and associated waterfront historic resources in the United States and a permanent account of not only the physical resources contained within, but also the birth, development and workings of the Port from 1878 to 1946; and be it further

RESOLVED, As part of the pre-development phase of historic rehabilitation development projects, developers will be required to hire qualified historic consultants to conduct research to provide information about the waterfront labor history of the project site and vicinity, similar to efforts to carry out historic architectural research wherein both efforts, even if conducted by separate consultants, must be coordinated in terms of scope and schedule with the design and schedule needs of the development project; and be it further

RESOLVED, The Commission hereby approves the Embarcadero National Register Historic District nomination report, substantially in the form on file with the Secretary of the Port Commission and as further refined and edited for clarity, internal consistency, and incorporation of additional facts to document Historic District resources; and be it further

RESOLVED, The Commission directs the Executive Director to include the Historic Preservation Review Guidelines, presented in Exhibit A, as an appendix to be included in the Historic District nomination report, to provide more definition and explanation of how the Historic District will be interpreted and Secretary of Interior Standards applied for specified types of activities and proposals, including ordinary maintenance and repair, and changes to non-contributing resources or features within Bulkhead Wharf Section A, B and 1, between Pier 35 and 45; and be it further

RESOLVED, The Commission hereby authorizes and directs the Executive Director, or her designee, to formally submit the Embarcadero National Historic District nomination report, as revised to incorporate corrections and additional information described in the October 20, 2004 Commission staff report, to the State Office of Historic Preservation for review and action by the State Historical Resources Commission, and the National Park Service for listing on the National Register of Historic Places; and be it further

RESOLVED, The Commission hereby authorizes and directs the Executive Director, or her designee, to take all such further actions as are required for the listing of the Embarcadero National Register Historic District on the National Register of Historic Places to the extent that such actions do not materially alter the content or intent of the Historic District documentation, or Port's understanding of the interpretation of the Historic District as described in the Historic Preservation Review Guidelines in Exhibit A.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of October 26, 2004.

Secretary

**Historic Preservation Review Guidelines for
Pier and Bulkhead Wharf Substructures,
Including Sections A, B and 1 of the Bulkhead Wharf
*Developed: October 20, 2004***

As part of the preparation of the Port of San Francisco Embarcadero Waterfront National Register Historic District nomination, the following guidelines were developed to define the application of the Secretary of the Interior's Standards (Standards) to projects involving Contributing pier substructures, including pier aprons, Contributing and Non-contributing sections of the bulkhead wharf, and Non-contributing resources and features located on certain piers and the bulkhead wharf. These guidelines include specific provisions that apply only to Sections A, B and 1 of the bulkhead wharf in response to the particular conditions and extent of Non-contributing resources and features in the Pier 35 to 45 area of the Historic District, as described in the nomination report. For reasons associated with such unusual non-historic conditions in this area of the Historic District, the Standards require adaptation to existing conditions. These guidelines shall govern the Port's application of the Standards, as described below, for the conditions and locations to which they apply.

I. Pier and Bulkhead Wharf Substructures

The historic piers and resources in the Embarcadero Historic District are made up of pile-supported platforms upon which pier shed and bulkhead building structures were built to conduct maritime commerce. The substructure of the piers and bulkhead wharf, described in detail in Section 7 of the Embarcadero Historic District nomination, consists of vertically driven piles, topped by stringer and pile cap beams, which create the horizontal structural framework upon which pier decks rest. Beneath these structures, the tides of the San Francisco Bay ebb and flow. Pier substructures are defined to include pier aprons, which are constructed at the perimeter of piers, generally used to provide a pile-supported platform for ship berthing and outdoor working area. In most instances, pier aprons are constructed of wood and have a shorter life span, requiring more maintenance than steel and concrete substructures.

Within this complex, the bulkhead wharf is an important feature. It is comprised of 23 individual sections that extend end to end throughout the historic district, adjacent and connected to the Seawall, which establishes the constructed edge of the waterfront between piers. In addition, the bulkhead wharf plays an important role in defining the Embarcadero's urban form, which supports maritime, public access and commercial recreation/retail functions.

The character defining features of pier and bulkhead wharf substructures include:

- Location – Arranged perpendicular to the seawall projecting out into the Bay (piers and aprons), or parallel and attached to the Seawall (bulkhead wharves) throughout the district, forming the Bay edge.
- Dimensions - Variable width and length. In the case of the bulkhead wharf, the width and length of the resource generally corresponds to the dimensions of the underlying section of the seawall to which it is attached.

- Design - A cantilevered, pile-supported deck that extends outward into the Bay from the top of the seawall or bay edge of the bulkhead wharf. Pier and bulkhead substructures also serve as supporting foundations for pier/transit sheds, bulkhead and other buildings, or provide open air access between pier facilities, berthed vessels, and the Embarcadero.
- Materials - Generally, concrete and steel construction (see Section 7 for site-specific details). Pier aprons may be constructed of wood. Decking material may be wood or concrete, with or without an asphalt or concrete surface treatment and protection.
- Function - Utilitarian function as a maritime, public access, commercial recreation/retail facility.

The Port will review and evaluate permits, approvals and necessary entitlements for work involving pier and bulkhead wharf substructures as follows:

1. Ordinary Maintenance, Repair and Required Alteration

For the purposes of applying the Standards to the pier and bulkhead wharf substructures, ordinary maintenance and repair shall be defined as any work for the purpose of correcting deterioration, decay or damage, including damage caused by fire or other disaster, as determined necessary to meet current public and life safety requirements. This includes structural and seismic upgrades to maintain the structural integrity of pier and bulkhead wharf substructures, to allow them to continue to support existing features, structures, uses and activities, including Non-contributing resources and features. Work within the scope of this definition shall be found to conform to the applicable Standards:

- 1) A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
- 2) The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
- 3) Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
- 4) Changes to a property that have acquired historic significance in their own right will be retained and preserved.
- 5) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
- 6) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

Review Criteria

Ordinary maintenance and repair of pier and bulkhead wharf substructures shall seek to maintain the location, dimensions and arrangement and design concept (a pile-supported, cantilevered deck located on, above, or attached to the bulkhead wharf or Seawall), consistent with existing conditions and their general appearance at the time of Port Commission approval of the Embarcadero Historic District.

The Port, in reviewing and authorizing ordinary maintenance and repair work for pier or bulkhead wharf substructures within the Historic District, shall make reasonable efforts to maintain, rehabilitate and minimize damage to existing historic materials.

Any work that does not qualify as ordinary maintenance and repair shall be subject to review for conformity with the Secretary's Standards. In addition, ordinary maintenance and repair, and required alteration shall also be subject to applicable Port lease requirements, the Waterfront Land Use Plan, BCDC Special Area Plan and other applicable land use regulations and policies, including review by the Waterfront Design Advisory Committee, BCDC's Design Review and Engineering Criteria Review Boards.

Examples of Ordinary Maintenance and Repair

Includes, but is not limited to the following:

- Cleaning
- Application of shotcrete to the substructure
- Removal of spalling concrete on the substructure
- Deck repair, or replacement
- Replacement of surface materials in-kind unless the use of the facility dictates the need for a substitute material. Substitute materials are limited to the use of wood, concrete or asphalt surface treatment
- Pile repair, reinforcement, or replacement, including pile enlargement
- Repair, replacement or installation of batter piles
- Cap or stringer beam repair or replacement, including addition of new beams
- Concrete slab repair or replacement
- Replacement of reinforcing steel
- Seismic retrofit (including installation of seismic joints or separation of structures)
- Ordinary maintenance and repair of existing contributing and non-contributing resources or features
- Repair of damage caused by fire or other disaster

2. Alteration of Contributing Resources

Alteration of Contributing pier and bulkhead wharf substructures, or portions thereof, not otherwise allowed within the scope of ordinary maintenance and repair, as defined above, shall be subject to review for conformity with the applicable Secretary's Standards. In addition, such work shall be subject to applicable Port lease requirements, the Waterfront Land Use Plan, BCDC Special Area Plan and other applicable land use regulations and policies, including design review by the Waterfront Design Advisory Committee and BCDC's Design and Engineering Criteria Review Boards.

Review Criteria

The Port shall seek to maintain the character defining features of the bulkhead wharf and promote, enhance and strengthen the historic qualities and characteristics of the individual sections of bulkhead wharf, and the collective value of the wharves to the waterfront's urban design and form, as well as the District's historic significance. In evaluating proposals to alter, replace, or remove/demolish the bulkhead wharf, the Port shall also consider the overall compatibility of the proposal with the aesthetic quality, public access and active use of bulkhead wharf.

Examples of Alterations to Contributing Resources

Includes but not limited to:

- *Alteration not required as part of ordinary maintenance and repair, including such things as additions or extensions to the wharf*
- *Replacement not required as part of ordinary maintenance and repair*
- *Removal/demolition not required as part of ordinary maintenance and repair, including such things as the permanent removal of the bulkhead wharf, or portions thereof, which modify the Bay edge and create more open water area*

3. Alteration of Non-contributing Resources and Features

Except as provided in "II. Bulkhead Wharf Sections A, B and 1 (Pier 35-45) – Specific Provisions" below, the alteration of existing non-contributing resources or features that are located on or attached to pier and bulkhead substructures within the Historic District, which are not otherwise permitted within the scope of ordinary maintenance and repair, shall be subject to review for conformity with the applicable Standards. In its review of such proposals, the Port shall consider 1) the degree to which the proposed work would exceed existing conditions by expanding the footprint, bulk or height of the feature or structure; 2) whether it would maintain the character defining features of the pier and bulkhead wharf substructure, or decrease the degree of compatibility within the Historic District.

In addition, alteration, replacement, relocation, or expansion of non-contributing resources and features on the pier or bulkhead wharf substructures shall be subject to applicable Port lease requirements, the Waterfront Land Use Plan, BCDC Special Area Plan and other applicable land use regulations and policies, including design review by the Waterfront Design Advisory Committee and BCDC Design and Engineering Criteria Review Boards.

Examples of Alterations to Non-Contributing Resources and Features

Includes but not limited to:

- *Removal or alteration of non-contributing concrete seats or step platforms at Pier 7 public access that are partially located on the bulkhead wharf.*
- *Alteration or replacement of existing non-contributing features, or structures, such as the non-historic connector building between Piers 19 and 23.*

II. Bulkhead Wharf Sections A, B and 1 (Pier 35 to 45) - Specific Provisions

The bulkhead wharf and the use and development of its surface in the Pier 35 to 45 portion of the historic district has undergone significant repair, alteration and partial replacement, and change in context associated with the loss, or transformation of historic piers, the relocation of The Embarcadero roadway and the development of completely new patterns of use and development for non-maritime and contemporary maritime purposes. Alterations and intrusions in this area post date the historic

district's Period of Significance, which ends in 1946. See Section 7 of the Historic District nomination report for a detailed description of the Pier 35 to Pier 45 area. Sections A and 1 of the bulkhead wharf substructures retain sufficient integrity below the visible surface, and therefore have been identified as contributing resources; Section B is identified as a non-contributing resource. The alterations and intrusions include, but are not limited to the redevelopment of the Pier 39 area (including the former area of Piers 37, 39, 41 and 43, stretching from the westerly edge of Pier 35 to the westerly edge of Pier 43) to become a public and tourist attraction, including demolition of some piers and expansion of others, and relocation of The Embarcadero roadway inland to create a major public access and park area; construction of the Pier 39 Marina and Aquarium of the Bay; the Pier 41 Blue and Gold building and ferry boat complex (formerly Harbor Carriers); the complete reconstruction of Pier 43 as a public access area, structurally separate from the Ferry Arch; and the construction of the Pier 43-1/2 Red and White Fleet Building.

The Port will review and evaluate permits, approvals and necessary entitlements for work located in Sections A, B and 1 of the bulkhead wharf, between Pier 35 and 45, consistent with Sections I.1, I.2 and I.3 of this document, with the following geographic specific modifications. Although Section B is a non-contributing resource, for purposes of review, it shall be treated consistent with Sections A & 1:

1. Ordinary Maintenance and Repair

Ordinary maintenance and repair of Bulkhead Wharf Sections A, B and 1 shall follow the standard definition described above in I.1, I.2, and I.3, but shall also specifically include maintenance, repair and replacement of existing contributing and non-contributing buildings and surface improvements located on the bulkhead wharf, including the Aquarium of the Bay, Pier 39 Buildings (A and Q), Pier 41 Blue and Gold Building, Pier 43, Pier 43-1/2 The Red and White Fleet Building and Pier 45 Sheds A and D, public access walkways and related improvements, landscape planters and beds, ticket booths and related vending and other accessory structures and improvements.

2. Alterations to Non-contributing Resources and Features, and new development located on, or attached to Section A, B and 1 Bulkhead Wharf Substructures (Piers 35 to 45)

In recognition of the historic and contemporary pattern of development and use of Bulkhead Wharf Sections A, 1 and B, the Port shall review proposals for alterations, replacement, relocation and expansion of non-contributing resources and features, or new construction on these bulkhead wharf sections for conformity with the Port's Waterfront Land Use Plan, Design and Access Element (WDAE). Proposals for this area between Piers 35 and 45 that are found to be consistent with the WDAE shall also be considered consistent with the Secretary's Standards, and shall not be subject to a separate evaluation process to determine consistency with the Secretary's Standards. This review and evaluation process will rely on the WDAE because, after careful review by the Port and San Francisco preservation community, that document was found to provide a comprehensive set of policies and site-specific design criteria that achieve the same or related objectives called for by the Standards. All proposals would continue to be subject to review for conformance with applicable Port lease requirements, the Waterfront Land Use Plan, BCDC Special Area Plan, and other applicable land use regulations and policies, including design review by the Waterfront Design Advisory Committee and BCDC's Design and Engineering Criteria Review Boards.

Examples of Work Allowed in Bulkhead Wharf Sections A, B and 1

Includes but not limited to:

- Relocation, replacement or expansion of existing non-contributing resources or features located on the bulkhead wharf such as the Aquarium of the Bay, or the Pier 41 Blue and Gold Building
- Expansion of existing non-contributing resources or features, such as pier and bulkhead buildings, public access walkways and related improvements, landscape planters and beds, ticket booths and related vending and other accessory structures

Exhibit C

Tim Kelley

*Architectural History
Historic Resources Consulting*

2912 Diamond Street #330 • San Francisco, CA 94131 • (415) 337-5824 • st_history@yahoo.com



August 27, 2004

Monique Moyer, Executive Director
Port of San Francisco
Pier One
San Francisco, CA 94111

Dear Director Moyer:

As I explained in our meeting of June 21, I strongly support the Port's creation of a National Register Historic District on the San Francisco waterfront. I also commend the nomination for that district that you will soon be reviewing, and the monumental effort involved in its creation. However, I continue to feel that the nomination is insufficient to protect the features of the waterfront that best convey its important Labor History.

Indeed, the authors understand this too, as when they say: "This nomination does not tell the entire story of labor's contribution to the port." (Section 8, p63) or "Additional inspection and research may identify spaces in transit sheds and bulkhead buildings that served as lunch rooms, locker rooms, or other purposes for waterfront laborers." (Section 8, p186).

The single most important feature of waterfront structures that conveys their labor history is extremely problematic for future development. That is the dramatic contrast between their highly finished facades and their crude, unadorned interiors. This disparity is the clearest expression of their historic intent to place a genteel public screen across the grueling, often dangerous labor that took place behind.

Without the additional research called for in the nomination, and without recognition of the historic interior expression of the pier sheds and bulkhead buildings, the eventual National Register district based on this nomination will be blind to the physical features that express its Labor History. Those features therefore will be unprotected.

Clearly at this juncture, it is not possible for the Port to fund the additional research needed. It is also clear that inclusion of the rough interior components as character

Clearly at this juncture, it is not possible for the Port to fund the additional research needed. It is also clear that inclusion of the rough interior components as character defining features of the structures would greatly restrict development potential. But the nomination should not simply be shelved until funding becomes available.

Most importantly, the present uncertainties should not be allowed to cloud the future availability of tax credits for projects that impact shed interiors or other yet unidentified features. This would defeat the purpose of the National Register nomination. Given this situation, I propose the following to assure fair treatment of labor history on the redeveloped waterfront:

- submit the National Register nomination as is—with support of the Labor community
- include an additional provision in the adopting resolution requiring all future development projects within the historic district that apply for tax credits to also fund additional research on Labor History, based on the amount of tax credits involved
- funding created should be administered by a joint committee with equal numbers of representatives from the Port and the San Francisco Labor Archives, and research carried out under it should be conducted by an appropriate non profit Labor History organization.
- total amount of funding should be sufficient to create a significant public archive and presentation that will compensate for the loss of materials expressive of Labor History, and also assist both developers and the Port in public approval processes

This proposal has the strong support of the San Francisco Labor Council, the Building Trades Council, and other members of the labor community. I respectfully urge you to adopt it so that the important goals of the Port's nomination can be realized in the most expeditious and equitable way. I would welcome the opportunity to discuss this with you prior to your action on the National Register nomination.

Sincerely,



Tim Kelley
Consulting Historian

Exhibit D

October 8, 2004

Tim Kelley
2912 Diamond Street, #330
San Francisco, CA 94131

RE: Labor History Research Proposal

Dear Mr. Kelley:

Thank you for your letter of August 27, 2004. After various discussions since then between you, my staff and Port Commission members regarding your labor history research proposal, this letter presents our response to the issues raised.

You have expressed your view that the Embarcadero National Register Historic District nomination is deficient because it does not adequately address labor history. We disagree. Based on our review and that by the preservation community, the body of work by Marjorie Dobkin and Michael Corbett is significant, meeting or exceeding the level of detail and rigor of research needed to support the nomination. Given the district's size, scope and breadth of the issues addressed, it is not reasonable nor is it required for the nomination to address all labor history events or details. Instead, the nomination provides a clear framework for understanding the conditions and requirements of waterfront labor, and the impact it had on the rest of the City.

That said, we agree that there is a need and desire to build upon the foundation of waterfront labor history knowledge established in Central Embarcadero Piers Historic District, and the Embarcadero National Register Historic District nomination. To that end, we believe further labor history research should be conducted as part of all major redevelopment projects that include one or more eligible or listed contributing resources in the Embarcadero National Register Historic District and Pier 70 areas. This work should be carried out by qualified labor history consultants, and should focus on events and facts that relate to the project site, including its association with waterfront labor history. We believe it is appropriate to carry out this additional research, similar to that conducted for historic architecture, whether or not the development project is seeking Federal historic preservation tax credits. We anticipate that the requirement for labor history research would be included in Requests for Proposals for major Port waterfront development opportunities.

In your proposal, concern was raised about the Port's recent historic rehabilitation projects, describing them as "genteel public screens across the crude, unadorned interiors" that housed waterfront labor. You refer to the need for funds to "compensate for the loss of materials expressive of Labor History". Your underlying message is that these projects are hostile to labor history interests, which triggers the need for some sort of mitigation. We strongly disagree with those assertions. To the contrary, the essential nature of historic rehabilitation projects is to accommodate new compatible uses when there is no longer potential for break-bulk shipping or historic uses to continue. With those new uses comes the need to improve the facilities to support the new activities. However, the historic rehabilitation requirements also balance those changes with measures to preserve historic character and further the public's understanding and appreciation of not just the physical resource, but also its history, including labor-related functions, events and activities.

Given the lack of available Port, City or other public financing, the public-private development partnerships achieved for the Ferry Building, Pier 1 and Piers 1-1/2, 3 & 5 have been the only proven means to give Port historic resources a new lease on life. The alternative is to continue to lose our historic resources through deterioration, condemnation and ultimate demise. After exhaustive review, all three of these projects were determined by the State Office of Historic Preservation and National Park Service to meet the Secretary of the Interior Standards, the country's recognized historic preservation standards. To the extent we can further enrich the development design of these types of historic rehabilitation projects through greater discussion and understanding of the relationship between the physical resources and labor history, we would welcome the opportunity to discuss this matter with you and other labor history advocates.

In your letter you propose a funding mechanism to enable the labor research, based on federal historic tax credits awarded to projects. Staff does not believe it appropriate to try to define in the abstract how much a developer should spend on labor history research, given that each individual project has its unique variables that determine the scope of the research needed. Neither do we believe that there is a nexus between the cost of a project (or its tax credit potential) and the depth of labor history research necessary. In any case, as a practical matter, the Port and developer will not know the amount of the tax credits until well after the time when the labor history and architectural history research needs to be completed. Thus, the proposed funding approach would not work towards producing labor history information in a timely manner that could inform and shape the design of a historic rehabilitation project, including any interpretive exhibits.

In response to your proposal that a committee be established to direct funding for labor history research as part of historic rehabilitation projects, you should know that the Port does not dictate, nor does it have sign-off authority on, the consultants a developer hires for its project team. Explicit provisions in development agreements assign sole responsibility to secure project entitlements or approvals, including the required supporting research and analysis, to the developer. However, it would be helpful if the broader historic preservation community, including labor history consultants like yourself, could develop criteria or guidelines to define the type of experience and qualifications for historic architecture or labor history to help developers select consultants with appropriate expertise to advise on Port waterfront projects. Such guidelines perhaps could also suggest ways in which project could develop a greater public appreciation of waterfront labor history.

By requiring both labor history and architectural history research to be conducted as part of a project's pre-development phase, we will have a collective body of research early on to develop a sensitive, integrated approach to the design and development program of future projects. This will ensure that project designs respond to the architectural and labor history details associated with project sites. The determination of whether an historic rehabilitation project meets Secretary's Standards will continue to be determined on an overall project basis, including the recognition of labor history.

Thank you for your time and interest in waterfront historic preservation issues. Please call me at 274-0546 if you have further questions.

Sincerely,
(original was signed)

Byron Rhett, Deputy Director
Planning & Development

cc: Monique Moyer
Members, Port Commission
Diane Oshima
Mark Paez
Kirk Bennett

G/historicpreservation/laborhistory/10-4-04mmresponsetotimkelley

Embarcadero National Register Historic District

Contributing Resources

Contributing resources:

Seawall:

from Pier 45 to China Basin– structure
at Pier 48 – structure

Bulkhead Wharf:

Pier 45 Section – structure
Section 2 – structure
Section 3 – structure
Section 4 – structure
Section 5 – structure
Section 6 – structure
Section 7 – structure
Section 8a – structure
Section 8b – structure
Section 8 – structure
Section 9 – structure
Section 10 – structure
Section 11a – structure
Section 11 – structure
Section 12 – structure
Pier 48 Section– structure

Piers and Buildings:

Pier 45 – building
Pier 43 (Car Ferry Headhouse) – structure
Pier 35 – building
Pier 33 – building
Pier 31 – building
Pier 29 – building
Pier 29 Annex (Belt Railroad) – building
Pier 23 Restaurant – building
Pier 23 – building
Pier 19 – building
Pier 17 – building
Pier 15 – building
Pier 9 – building
Pier 5 – building
Pier 3 (including Pier 1½) – building
Pier 1 – building
Ferry Building – building
Agriculture Building – building
Fire Station 35 (at Pier 22½) – building
Pier 24 Annex – building

Pier 26 – building
Pier 26 Annex – building
Pier 28 – building
Pier 28½ Restaurant – building
Pier 36 – building
Pier 38 – building
Pier 40 – building
Java House Restaurant, near Pier 40 – building
Pier 48 – building

Non-contributing resources are as follows:

Bulkhead wharf Section B – structure
Franciscan Restaurant, near Pier 43½ – building
Bulkhead wharf Section A – structure
Pier 41½ (portion on bulkhead wharf) – building
Bulkhead wharf Section 1 – structure
Pier 39 (portion on bulkhead wharf) – building
Pier 29 Office building – building
Pier 27 Terminal – building
Pier 15-17 Quay – structure
Terminal Office Building, Pier 15-17 – building
Pier 7 (Waterfront Restaurant) – building
Bulkhead wharf Section 13 – structure
Pier 46 Bulkhead Wharf Section - structure

ATTACHMENT 2C

San Francisco Planning Department Standard
Mitigation: Documentation and Interpretation
for Demolition or Alteration of Buildings

EXHIBIT 1: MITIGATION MONITORING AND REPORTING PROGRAM (Includes Text for Adopted Mitigation and Improvement Measures)				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
Cultural Resources Mitigation Measures				
<p>M-CP-1a: HABS/HAER Archival Documentation of Pier 36 and Bulkhead Wharf Sections 11a, 11, and 12. The project sponsor shall, at a minimum, ensure that a complete survey meeting the standards of the HABS/HAER is undertaken prior to demolition. This survey shall be completed in accordance with HABS/HAER level II documentation standards as follows:</p> <ul style="list-style-type: none"> • Prior to demolition, the project sponsor shall provide adequate documentation of the existing resources. The documentation shall be submitted to the City and County of San Francisco Planning Department and found to be adequate prior to authorization of any permit that may be required for demolition of the building. In addition, the project sponsor shall prepare and transmit the photographs and descriptions of the property to the History Room of the San Francisco Public Library and the NWIC of the California Historic Information Resource System. The documentation shall include: • A video documentary of the resources. • Photo-documentation of the resources to HABS Standards. The standard size of negatives and transparencies (and accompanying prints) are 5-by-7 inches. Other large-format sizes such as 4-by-5 inches and 8-by-10 inches are also acceptable for formal documentation. Roll film, film packs, and electronic manipulation of images are not acceptable. Images must be fully identified with the name and location of the structure, a description of the feature or view being photographed, and the direction in which the photograph was taken, as well as the name of the photographer and the date created. • Black and white, 35 millimeter photographs of the interior (Pier 36 shed) and exterior of the resources. Negatives and 5-by-7 inch prints should be processed to meet archival requirements (i.e., negatives must be on safety film only; resin-coated paper is not accepted). • As-built drawings of the resources, produced to HABS/HAER Standards. • The available original plans of the resources shall be included as part of the documentation. All drawings and site plans shall be appropriate conserved at the site or at a qualified repository. 	<p>Port of San Francisco and U.S. Army Corps. Of Engineers (USACE)</p>	<p>Prior to demolition and construction activities.</p>	<p>Planning Department to approve scope of work for documentation to be submitted by project sponsor</p>	<p>Considered complete upon sponsor's distribution of Planning Department-approved photo documentation.</p>



EXHIBIT 1: MITIGATION MONITORING AND REPORTING PROGRAM (Includes Text for Adopted Mitigation and Improvement Measures)				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
M-CP-1b: Salvaged Materials. Prior to demolition of Pier 36, the project sponsor shall consult with the San Francisco Planning Department to determine whether there are character-defining elements of the, other than the historic neon identification sign and the rail spur, that will be incorporated into the design of the Brannan Street Wharf, that are of interest and that can feasibly be salvaged. The project sponsor shall notify local recognized historic preservation organizations such as San Francisco Architectural Heritage and the San Francisco Museum and Historical Society of the opportunity for salvage of additional elements of the resource. Donation of the materials to the historic preservation organization approved by the City shall be confirmed by the Environmental Review Officer (ERO) prior to the Port's issuance of demolition permits.	Port of San Francisco	Salvage plan submitted to Planning Department prior to demolition and construction activities.	Planning Department to approve planned salvage character-defining materials.	Considered complete upon verification by Planning Department of salvage received by organization, before issuance of a building permit.
M-CP-2: Interpretive Exhibit. The inclusion of an interpretive historical exhibit as part of the proposed landscape design of the proposed Brannan Street Wharf would partially mitigate the impact of the project on historical resources. The exhibit would consist of historical images including maps and photographs as well as narrative text to explain and summarize the historical significance of the Port of San Francisco Embarcadero Historic District, as well as significant events that occurred in the South Beach area, including among other things the construction and operation of Pier 36 and the Belt Railroad. The Port would also be required to interpret the site's history by incorporating a commemorative rail mark in the deck of the new Brannan Street Wharf in the approximate location of the existing historic rail spur on the south apron of Pier 36. The interpretive historic exhibit would also include a narrative of the historical importance of this rail mark in the Brannan Street Wharf design. The exhibit would serve as a valuable educational tool and raise the public's awareness and understanding of the Port of San Francisco Embarcadero District.	Port of San Francisco	Interpretive Exhibit plan submitted to Planning Department prior to demolition and construction activities.	Planning Department to approve interpretive exhibit plan.	Considered complete upon verification by Planning Department of interpretive exhibit plan, before issuance of a building permit.
Mitigation Measure M-CP-3 Accidental Discovery. The following mitigation measure is required to avoid any potential adverse effect from the proposed project on accidentally discovered buried or submerged historical resources as defined in CEQA Guidelines Section 15064.5(a)(c).				
The project sponsor shall distribute the Planning Department archeological resource "ALERT" sheet to the project prime contractor, to any project subcontractor (including demolition, excavation, grading, foundation, pile driving, etc. firms); or utilities firm involved in soils disturbing activities within the project site. Prior to any soils disturbing activities being undertaken each contractor is responsible for ensuring that the "ALERT" sheet is circulated to all field personnel including, machine operators, field crew, pile drivers,	Port of San Francisco and USACE	Prior to any soils-disturbing activity.	Distribution of "ALERT" sheet among contractors and crew; project sponsor to provide ERO with a signed affidavit.	Prior to any soils-disturbing activity. Considered complete upon ERO approval of affidavit.

EXHIBIT 1: MITIGATION MONITORING AND REPORTING PROGRAM (Includes Text for Adopted Mitigation and Improvement Measures)				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
supervisory personnel, etc. The project sponsor shall provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet.				
Should any indication of an archeological resource be encountered during any soils disturbing activity of the project, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils disturbing activities in the vicinity of the discovery until the ERO has determined what additional measures should be undertaken.	Head Foreman and Port of San Francisco, USACE	During any soils-disturbing activity.	Notification of ERO if any archeological resources encountered.	During any soils-disturbing activity. Considered complete upon notification of ERO.
If the ERO determines that an archeological resource may be present within the project site, the project sponsor shall retain the services of a qualified archeological consultant. The archeological consultant shall advise the ERO as to whether the discovery is an archeological resource, retains sufficient integrity, and is of potential scientific/historical/cultural significance. If an archeological resource is present, the archeological consultant shall identify and evaluate the archeological resource. The archeological consultant shall make a recommendation as to what action, if any, is warranted. Based on this information, the ERO may require, if warranted, specific additional measures to be implemented by the project sponsor. Measures might include preservation in situ of the archeological resource; an archaeological monitoring program; or an archeological testing program. If an archeological monitoring program or archeological testing program is required, it shall be consistent with the Major Environmental Analysis (MEA) division guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.	Port of San Francisco, USACE, and archeological consultant	Before resumption of any soils-disturbing activity (if suspended)	Archeological consultant shall advise the ERO and ERO may require additional measures	Prior to resumption of soils-disturbing activity. Considered complete upon ERO approval of archeological consultant's recommendations.
The project archeological consultant shall submit a Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describing the archeological and historical research methods employed in the archeological monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.	Port of San Francisco, USACE, and archeological consultant	Following completion of any required archaeological field program	Archeological consultant submits draft FARR to ERO for approval	Prior to issuance of final certificate of occupancy. Considered complete upon ERO approval of draft FARR
Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal	Port of San Francisco, USACE, and archeological	Following completion of FARR.	Distribute FARR. Submittal to ERO of affidavit of FARR	Prior to resumption of soils-disturbing activities.

EXHIBIT 1: MITIGATION MONITORING AND REPORTING PROGRAM (Includes Text for Adopted Mitigation and Improvement Measures)				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.	consultant		distribution.	Considered complete upon Planning Department receipt of report.
Air Quality Mitigation Measures				
M-AQ-2: Construction Vehicle Emissions Minimization. To reduce construction vehicle emissions, the project sponsor shall incorporate the following into construction specifications: <ul style="list-style-type: none"> • Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. • All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. 	Port of San Francisco, USACE, and construction contractor	Prior to issuance of request for construction bids and during all construction activities	Project sponsor and Planning Department, Environmental Planning (EP)	The project sponsor shall submit a copy of the relevant portion(s) of the construction bid package to EP for inclusion in the project file.
<ol style="list-style-type: none"> 1. The Port of San Francisco (Port) and Army Corps of Engineers (USACE) shall ensure that construction contract specifications include a requirement that on-road diesel trucks used to transport spoils consist of 2004 or newer model-year trucks with factory-built engines. All on-road diesel trucks shall be required to have emission control labels as specified in 13 CCR 2183(c). The construction contract specifications shall require that the contractor submit to the Port and USACE a comprehensive inventory of all on-road trucks used to haul spoils. The inventory shall include each vehicle's license plate number, the engine production year, and a notation of whether the truck is in possession of an emission control label as defined in 13 CCR. The contractor shall update the inventory and submit it monthly to the Port and USACE throughout the duration of the project. 2. The Port and USACE shall ensure that construction contract specifications include a requirement that all off-road diesel construction equipment is equipped with Tier 3 diesel engines (or 				

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<p>Tier 2 if Tier 3 is not readily available) as defined in 40 CFR Part 89 and are equipped with Level 3 Diesel Emission Control Strategies as defined in 13 CCR 2700–2710. The construction contract specifications shall require the contractor to submit a comprehensive inventory of all off-road construction equipment that will be used an aggregate of 8 hours or more during any portion of project construction. The inventory shall include each vehicle's license plate number, horsepower rating, engine production year, and projected hours of use or fuel throughput for each piece of equipment. The contractor shall update the inventory and submit it monthly to the Port and USACE throughout the duration of the project.</p>				
Biological Resources Mitigation Measures				
<p>M-BIO-1a: Pile-driving Noise Measures for Aquatic Species.</p> <p>Prior to the start of construction, the Port will develop a NMFS-approved sound attenuation and monitoring plan. This plan will provide detail on the sound attenuation system and detail the methods used to monitor and verify sound levels during pile driving activities. The sound monitoring results will be made available to the NMFS.</p> <ul style="list-style-type: none"> While pile driving may occur during migration periods for some fish species, the USACE and Port will undertake formal consultation with NOAA NMFS and CDFG to address potential impacts to resources. Pile driving will employ a "soft start" technique to give fish an opportunity to move out of the area. Vibratory hammers will be used to the extent practicable to reduce hydroacoustic effects. Using bubble curtains in deeper water will further reduce noise levels. <p>If marine mammals are observed within 1,000 feet of the project site, allow them to completely exit the project site before pile driving resumes.</p>	Port of San Francisco	Prior to the start of construction and during construction activities	Port of San Francisco, USACE, and construction contractor	Considered complete upon receipt of final NMFS-approved sound attenuation and monitoring plan and at completion of construction
<p>Mitigation Measure M-BIO-1b: Best Management Practices (BMP's).</p> <p>Standard Best Management Practices (BMPs) will be applied to protect individuals of these species and their habitat(s) from pollution due to fuels, oils, lubricants, and other harmful materials. Vehicles and equipment that are used</p>	Port of San Francisco, USACE, and construction contractor	Preconstruction and Construction	Incorporate appropriate language into contract documents including requirement to	Completion of construction

EXHIBIT 1: MITIGATION MONITORING AND REPORTING PROGRAM (Includes Text for Adopted Mitigation and Improvement Measures)				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>during the course of a project will be fueled and serviced in a manner that will not affect federally protected species in the Biological Study Area or their habitats. The BMP's associated with the proposed project would include the following requirements:</p> <ul style="list-style-type: none"> Well-maintained equipment will be used to perform the work, and except in the case of a failure or breakdown, equipment maintenance will be performed off site. Equipment will be inspected daily by the operator for leaks or spills. If leaks or spills are encountered, the source of the leak will be identified, the leak will be cleaned up, and the cleaning materials will be collected and will be properly disposed. Fueling of marine-based equipment will occur at designated safe locations either off-site or within the project limits (on-site). Fueling of land-based equipment will occur in a staging area or over pavement, and the location will be inspected after fueling to document that no spills have occurred. Spills will be cleaned up immediately using spill response equipment. Offsite fueling will occur at locations covered under the Regional Water Quality Control Boards National Pollutant Discharge Elimination System (NPDES) industrial storm water permit (SIC Code 4493). If fueling occurs on-site the following precautions will be required to reduce the potential for spills: <ul style="list-style-type: none"> Ensure that adequate amounts of oil absorbents and other spill response equipment are easily accessible by boaters and the fueling attendant on the fuel barge (see below); Provide secondary containment (e.g. berm) around the dispensing area, fuel machinery and any oil storage containers to prevent oil spills; When it is safe and effective to do so, the designated fueling areas shall have booms installed prior to initiating fueling activities on or over water. The following specifications shall be used when a boom is deployed prior to fueling activities: <ul style="list-style-type: none"> An adequate boom shall be deployed such that it completely surrounds the vessel(s) and facility/terminal dock area directly involved in the fueling activities, or the portion of the vessel and fueling area that provides for maximum containment of any fuel/oil spilled. 			<p>implement BMP's and monitor to ensure that the contractor implements measures in contract documents, report noncompliance and ensure corrective action.</p>	

EXHIBIT 1:
MITIGATION MONITORING AND REPORTING PROGRAM
(Includes Text for Adopted Mitigation and Improvement Measures)

MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>b. The boom positioning shall be checked periodically and adjusted as necessary throughout the duration of the fueling activity, especially during tidal changes and significant wind or wave events.</p> <ul style="list-style-type: none"> • Avoid fueling boats from portable fuel containers; • Nozzles should have an automatic shut off feature; • Fuel slowly paying attention to the fuel gauge, the audible alarm once nearly full, or for the changes in pitch as it is filling; • Keep nozzle vertically upright when mounted in the fueling station to avoid drips; • Do not top-off fuel; • Leave the tank 5-10% empty to allow fuel to expand and not spill out of the vent; • Use an absorbing collar or "donut" pad around the nozzle when fueling to absorb back splash and any spill; • Use oil absorbents to catch fuel drips and spills while transferring the nozzle between the boat and fuel dock; • Attach containers to the outside of the air vent to catch spills caused by back pressure build up; • Install fuel/air separators in the air vent for a built-in fuel tank or stems of inboard fuel tanks to prevent spills during fueling; • If fueling occurs on-site, the following practices will be required for responding to spills: <ul style="list-style-type: none"> • Personnel must be trained in the proper use and maintenance of boom and recovery equipment. • Maintain an adequate supply of oil/hazardous spill response materials in readily accessible locations on the fuel barge for boaters and staff; including: <ul style="list-style-type: none"> a. Absorbent Boom; b. 3 feet of boom per foot of boat c. Enough to encircle largest boat in the construction site. 				

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
<ul style="list-style-type: none"> d. Deployment Boat; e. Hydrophobic Mop; f. Absorbent blankets and pillows; g. Non-sparking hand scoops, shovels, and buckets h. Empty Drums or other containers suitable for holding the recovered oil and oily water; i. Sand Bags; j. Miscellaneous Items such as: Rope, Flashlights, Metal Fence Stakes, Straw Bales and weighted spill mats (for covering storm drains); • All boom and associated equipment, including the equipment used to deploy the boom, must be of the appropriate size and design for the environmental conditions encountered in the fueling area based on the manufacturer's specifications. • In the event of a spill, immediately stop spill, contain spill from spreading further, collect and remove spilled materials if possible; • Dispose any used absorbents at oil absorbents collection facilities (which often serve as oil absorbents distribution facilities); • If a spill occurs, the recovery equipment shall be immediately deployed to capture as much fuel/oil as possible. In addition, any remaining boom onsite shall be deployed to contain the fuel and protect the environment while the fuel/oil spill is being recovered. • Within one hour of observing a spill, a boom shall be deployed to completely contain the vessel(s) and barge/facility/terminal dock area directly involved in the fueling activity or the area that provides for maximum containment of any fuel/oil spilled. • Never try to disperse spilled oil in the water using detergents and emulsifiers. Use absorbent booms and pads instead. Follow the Spill Prevention Plan. • Do not use dispersants to treat the oil spill; it is illegal; and 				

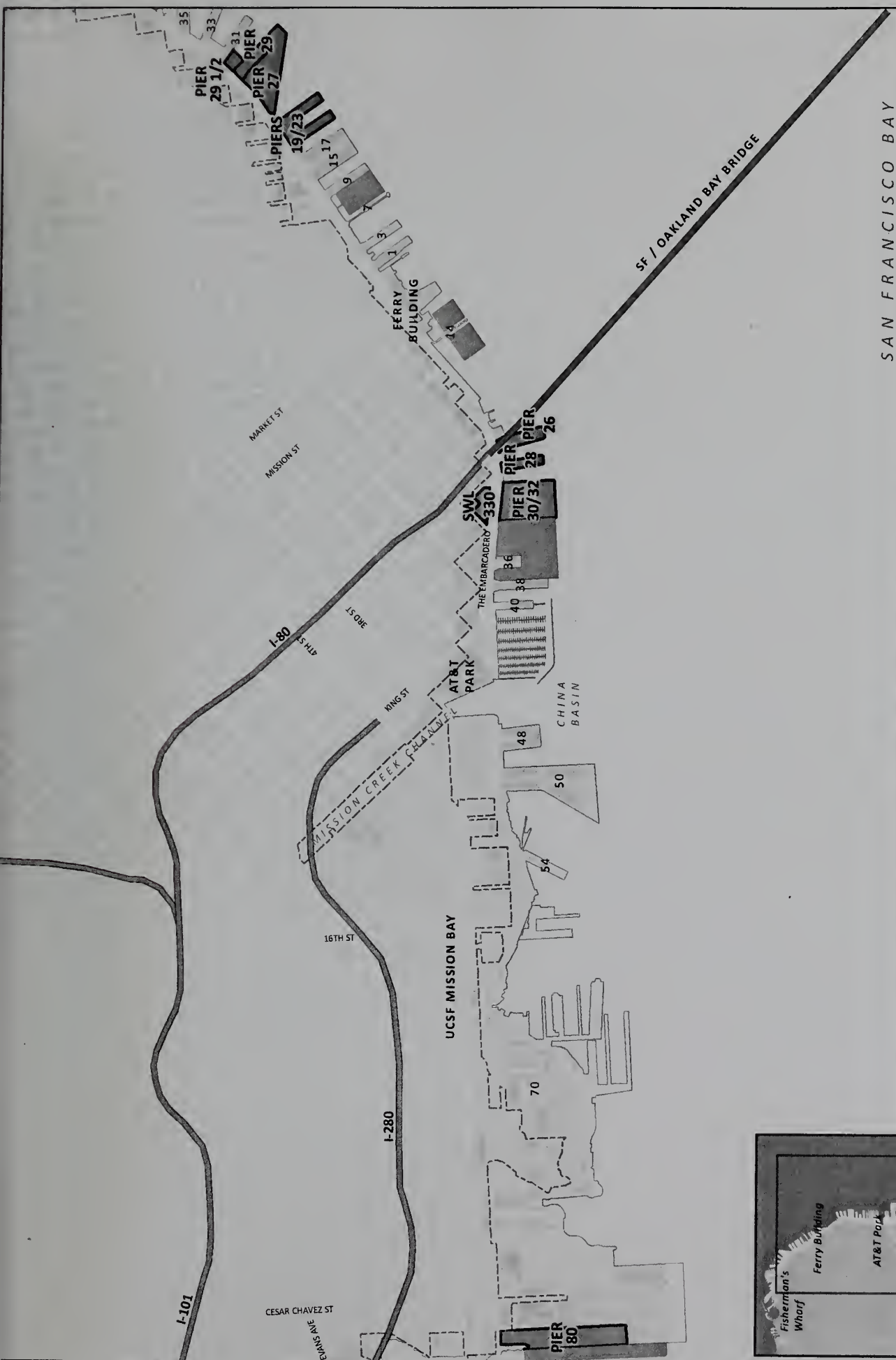
EXHIBIT 1:
MITIGATION MONITORING AND REPORTING PROGRAM
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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
<ul style="list-style-type: none"> Report the spill to the National Response Center 1-800-424-8802 The Port of San Francisco will reduce the amount of disturbance within the Biological Study Area to the minimum necessary to accomplish the project The Port of San Francisco will exercise every reasonable precaution to protect these species and their habitat(s) from construction by-products and pollutants such as demolition debris, construction chemicals, fresh cement, saw-water, or other deleterious materials. Demolition will be conducted from both land and water, and care will be used by equipment operators to control debris so that it does not enter the bay. During demolition, the barges performing the work will be moored in a position to capture and contain the debris generated during the dismantlement of the building and wharf. In the event that debris does reach the bay, personnel in workboats within the work area will immediately retrieve the debris for proper handling and disposal. Fresh cement or concrete will not be allowed to enter San Francisco Bay. Construction waste will be collected and transported to an authorized upland disposal area, as appropriate, and per federal, state, and local laws and regulations. All hazardous material will be stored upland in storage trailers and/or shipping containers designed to provide adequate containment. Short-term laydown of hazardous materials for immediate use will be permitted with the same anti-spill precautions. All construction material, wastes, debris, sediment, rubbish, trash, fencing, etc., will be removed from the site once the project is completed and transported to an authorized disposal area, as appropriate, in compliance with applicable federal, state, and local laws and regulations. 				
<p>M-BIO-1c: Spill Prevention Control and Countermeasure (SPCC) Plan.</p> <p>A Spill Prevention Control and Countermeasure (SPCC) plan will be prepared to address the emergency cleanup of any hazardous material and will be available on site. The SPCC plan will incorporate SPCC, hazardous waste, stormwater and other emergency planning requirements.</p>	Port of San Francisco, USACE, and construction contractor	Prior to the start of construction and during construction activities	Port of San Francisco, USACE, and construction contractor	Completion of construction

EXHIBIT 1: MITIGATION MONITORING AND REPORTING PROGRAM (Includes Text for Adopted Mitigation and Improvement Measures)				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>M-BOI-3: Migratory Bird Treaty Act. To the extent feasible, the Project Sponsor will not undertake construction or demolition activities between March 1 and August 1. If construction is anticipated to occur within the nesting season (March 1 through August 1), the following measures.</p> <ul style="list-style-type: none"> • Prior to the nesting season, all potential nesting areas on the roofs of the Pier 36 can be netted to prevent gulls from nesting there. The size of the potential nesting area presents some unique challenges, but bird netting is available in sizes large enough to cover the area required. The netting materials to be used are specifically developed for bird exclusion. The netting shall be inspected weekly to ensure that the barrier is functioning properly. • An alternate method to prevent gulls from nesting on the roof would be to set up a grid of wires (no more than 1 foot squares) across the nesting area, approximately 1 foot or more above the surface. The wires would have to be thin enough to not provide a stable surface for gulls to perch on, but strong enough that they do not break. The grid wires shall be inspected weekly to ensure that the barrier is functioning properly. <p>If netting the entire potential nesting area is not feasible, netting could be installed over smaller areas covering only where the birds are known to nest, followed by hazing of the areas outside the netting. Hazing is the intentional disturbance and removal of nests prior to egg laying to prevent birds from nesting during the construction period. Beginning at least two weeks prior to the onset of nesting season, hazing would require that one or more persons inspect the roof at least every other day with a broom or leaf blower to disrupt any nests outside the netted areas before they have eggs in them (once they have eggs, they can't be disturbed). There must be no more than two days between visits, and hazing must be repeated throughout the nesting season, while construction is occurring.</p>	<p>Port of San Francisco, USACE, and avian biologist</p> <p>Port of San Francisco, USACE, and avian biologist</p> <p>Port of San Francisco, USACE, and avian biologist</p> <p>Port of San Francisco, USACE, and avian biologist</p>	<p>Prior to construction during the nesting season.</p> <p>Prior to construction during the nesting season.</p> <p>Prior to construction during the nesting season.</p> <p>Two weeks prior to the onset of the nesting season.</p>	<p>Project Sponsor</p> <p>Project Sponsor and Avian biologist</p> <p>Project Sponsor and avian biologist</p> <p>Project Sponsor and Avian biologist</p>	<p>During construction</p> <p>Inspected weekly throughout construction</p> <p>Inspected weekly throughout construction.</p> <p>No more than two days between visits throughout the nesting season while construction is occurring.</p>
<p>M-BIO-4: Incidental Harassment Authorization. An Incidental Harassment Authorization will be obtained from NOAA under the Marine Mammals Protection Act (MMPA) and compliance with any measures that result from that process shall be implemented during the construction and demolition of the proposed project.</p>	<p>Port of San Francisco, USACE, and construction contractor</p>	<p>Prior to the start of construction and during construction activities</p>	<p>Port of San Francisco, USACE, and biologist</p>	<p>Completion of construction</p>

EXHIBIT 1:
MITIGATION MONITORING AND REPORTING PROGRAM
(Includes Text for Adopted Mitigation and Improvement Measures)

MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Responsibility for Implementation	Schedule	Monitoring/Report Responsibility	Status/Date Completed
Noise Mitigation Measures				
<p>M-NO-1: Pile Driving. The following measures would minimize pile driving noise for adjacent residents:</p> <p>The project sponsor shall require construction contractors use noise-reducing pile driving techniques such as, use cushions between top of pile and the hammer, vibrating piles into place and use predrilling or jetting to help ease pile driving when feasible, and consider use of concrete piles instead of steel piles. The project sponsor shall also require that contractors schedule pile-driving activity for times of the day that would be in accordance with the provisions of the San Francisco Noise Ordinance, to disturb the fewest people.</p>	Port of San Francisco, USACE, and construction contractor	During pile-driving	Employ noise-reducing pile driving techniques.	Following completion of all pile driving activities
Hazards and Hazardous Materials Mitigation Measures				
<p>M-HZ-1: Building Surveys. The project sponsor would ensure that building surveys for PCB- and mercury-containing equipment (including elevator equipment), hydraulic oils, and fluorescent lights are performed prior to the start of renovation. Any hazardous materials so discovered would be abated according to federal, state, and local laws and regulations.</p>	Port of San Francisco, USACE, and construction contractor	Prior to any demolition activities	Project sponsor or contractor shall submit a Monitoring Report, detailing survey results and compliance with the specified measure, to SFDPH for approval after construction. Copies the report shall be sent to the Port and Planning Department.	Considered complete upon agency receipt of SFDPH-approved Monitoring Report



ATTACHMENT C - LEASE PREMISES SITE PLAN

34th America's Cup

PORT OF SAN FRANCISCO

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Legend

- Venue
- Water Venue
- Port Jurisdiction Line

Scale

0 0.5 1 Miles

Orientation

North Arrow

Inset Map

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 11-80

WHEREAS, Charter Section B3.581 empowers the Port Commission with the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within the Port jurisdiction; and

WHEREAS, The Port of San Francisco ("Port") Waterfront Land Use Plan, including the Design and Access Element (collectively, the "Waterfront Plan") is the Port's adopted land use document for property within Port jurisdiction, which provides the policy foundation for waterfront development and improvement projects; and

WHEREAS, After a multi-year cooperative process, the Port Commission and the San Francisco Bay Conservation and Development Commission ("BCDC") adopted amendments to BCDC's San Francisco Bay Plan and BCDC's San Francisco Waterfront Special Area Plan ("Special Area Plan") in August 2000, which allowed for the redevelopment of certain piers for uses consistent with the public trust; and

WHEREAS, In 2001, through AB 1389, the State Legislature ratified the Special Area Plan as necessary to the health, safety and welfare of the public in the entire Bay Area, and declared that the Special Area Plan should provide for, among other things, a historic preservation mechanism to ensure preservation of important historic resources on the piers, and the ability of the Port to repair, improve, or use the piers not designated for removal between Pier 35 and China Basin for any purpose consistent with the Burton Act, the public trust and the Special Area Plan; and

WHEREAS, The Special Area Plan contains policies to allow for the repair and rehabilitation of existing piers, pier sheds, bulkheads and connector buildings that are listed on the National Register or listed as a California Historic Landmark, consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties ("Secretary's Standards"); and

WHEREAS, In February 2010, BMW Oracle Racing, sailing for the Golden Gate Yacht Club ("GGYC" and together, the "Team"), won the 33rd America's Cup in Valencia, Spain; and

WHEREAS, The Team, as Defender of the America's Cup, has the right and duty to organize the 34th America's Cup and related activities (the "Event"), and has created the America's Cup Event Authority, LLC (the "Event Authority") for purposes of organizing the Event ("AC34" or the "Event"); and

- WHEREAS, On October 5, 2010, by Resolution 465-10 (File No. 101254), the Board of Supervisors endorsed a Term Sheet that outlined the basis for the City, the America's Cup Organizing Committee (the "ACOC"), and the Event Authority to negotiate a Host City and Venue Agreement for the 34th America's Cup; and
- WHEREAS, On December 14, 2010, by Resolution 585-10 (File No. 101259), the Board of Supervisors endorsed a Host and Venue Agreement (the "HVA") as the basis for the City, the ACOC, and the Event Authority to negotiate and develop terms for hosting the 34th America's Cup; and
- WHEREAS, GGYC selected San Francisco as the host city for AC34 on December 31, 2010; and
- WHEREAS, Under the 34th America's Cup Host and Venue Agreement ("HVA"), among the Authority, the City and the ACOC, certain of the America's Cup World Series pre-regattas, the America's Cup Challenger Series, the America's Cup Defender Series (if held), and the America's Cup Match were proposed to be held in San Francisco Bay; and
- WHEREAS, Under the HVA, the City would provide Port land and water areas to the Authority for AC34-related uses (each, a "Venue") rent-free under leases (each, a "Venue Lease") and licenses (each, a "Venue License"), the Authority agreed to make certain capital improvements to improve the Venues and other Port property with the Port's approval, and the Port would reimburse the Authority for its costs through a combination of public sources described in this Agreement; and
- WHEREAS, The disposition and development agreement for the Venues ("DDA") sets forth the usage of Port property for the Event, and governs long-term development rights on Port property, and replaces Sections 5, 6 and 7 of the HVA; and
- WHEREAS, All of the Venues except Seawall Lot 330 are subject to the common law public trust for commerce, navigation, and fisheries and the statutory trust imposed by the Burton Act, Chapter 1333 of the Statutes of 1968, as amended, by which the State of California conveyed to the City, in trust and subject to certain terms, conditions and reservations, the State's interest in certain tidelands (collectively, the "Public Trust"); and
- WHEREAS, City and Port staff and consultants have conducted substantial economic analysis of the impacts and benefits on the Port and region; and
- WHEREAS, On March 22, 2011, by Board of Supervisors Resolution No. 134-11 (File No. 10-1564), the Board of Supervisors approved a Memorandum of Understanding (MOU) between the Port and the City Controller that

provides mechanisms by which the City will reimburse the Port for lost rent revenues and other Event-related costs; and

WHEREAS, The long-term leases and the disposition and development agreements for long-term development contemplated in the DDA will be subject to later discretionary approvals by the Port Commission and the Board of Supervisors, following completion of environmental review of the proposed development under the California Environmental Quality Act ("CEQA"); and

WHEREAS, Under Section 2 of the HVA, the HVA will terminate without liability to any party (except for the City's indemnification obligations) if the parties otherwise are unable to reach agreement on specified contingencies, including if environmental review under CEQA would require unacceptable modifications to the Event or other terms of the HVA; and

WHEREAS, The Event presents a rare opportunity to bring a new 21st century maritime use to the San Francisco waterfront; and

WHEREAS, Hosting the 34th America's Cup Event in San Francisco would generate significant public benefits for the Port and the City, including: (i) the repair, improvement and productive reuse of certain Port piers along the waterfront that are currently in a state of disrepair; (ii) the generation of significant new jobs and economic development in a very short period of time, as documented by various economic analyses; and (iii) an extraordinary maritime event that substantially increases public access to the waterfront, new opportunities for people to view and enjoy the San Francisco Bay and which showcases the Bay to the world; and

WHEREAS, The Port and the Authority are committed to improvements that would meet the Secretary's Standards and, long-term development, if approved, that would meet Secretary's Standards if applicable and therefore, be eligible for historic preservation tax credits, consistent with the Waterfront Plan and San Francisco General Plan policies intended to preserve the strong architectural and historic character of this notable historic district; and

WHEREAS, The improvements to Piers 30-32 to enable the 34th America's Cup also help advance long-term improvements of a designated development opportunity site in the Waterfront Land Use Plan, which the Port has sought but has been unsuccessful in achieving economically feasible development in prior efforts with private development partners; and

WHEREAS, The Port Commission must conserve Port revenues to subsidize those maritime uses and public improvements for which private investment is not economic, and therefore the Port cannot directly fund all necessary capital

improvements needed to repair historic Port facilities such as Piers 30-32; and

WHEREAS, Port staff and the Authority have negotiated the terms of the DDA and the Venue Leases set forth in the memorandum for Agenda Item 9B for the Port Commission meeting of December 16, 2011, copies of which are on file with the Commission Secretary; and

WHEREAS, The Authority is required to obtain amendments to the BCDC San Francisco Waterfront Special Area Plan and a Major Permit from BCDC for the Project, and Port, as landowner of the Site, must join the Authority as co-applicant in the filing of the applications for the Plan amendments and Major Permit from BCDC; and

WHEREAS, The BCDC Plan amendment and permit applications are subject to Port's review and approval prior to implementing the project improvements, including any conditions that may be imposed in granting BCDC approvals; and now, therefore, be it

RESOLVED, That the Port Commission finds that the Event is trust-consistent in that it is short-term and promotes public trust objectives, including maritime activities, as described in the Charter, and the Public Trust and that any long-term leases resulting in Authority long-term development rights will undergo independent analysis of their trust-consistency; and be it further

RESOLVED, That the Port Commission approves of the DDA and the transactions that the DDA contemplates, incorporating the business terms set forth in the Memorandum for Agenda Item 9B for the Port Commission meeting on December 16, 2011; and be it further

RESOLVED, That the Port Commission hereby authorizes Port staff to approve Scopes of Work discussed in the Memorandum for Agenda Item 9B for the Port Commission meeting on December 16, 2011, a copy of which is on file with the Port Commission Secretary if such cost estimates are (1) independently reviewed and (2) their summation does not exceed \$75 million; and be it further

RESOLVED, That the Port Commission authorizes and directs the Executive Director to forward the DDA to the Board of Supervisors for approval of the DDA as an amendment to Sections 5, 6 and 7 of the HVA, and upon the effectiveness of such approval, to execute the DDA, in substantially the form on file with the Port Commission Secretary, and in such final form as is approved by the Executive Director in consultation with the City Attorney, conditioned on the City's procurement of Event-related insurance coverage for the Port and the City for coverage and in amounts satisfactory to the City Risk Manager; and be it further

RESOLVED, That the Port Commission authorizes and directs the Executive Director to exercise Port rights under the DDA to reimburse the Authority for Pre-Match work in excess of \$55 million up to a maximum of \$15 million, or \$20 million if Port or City staff can identify additional funding satisfactory to the Port Commission, and, in order to execute that right, directs the Executive Director to work with the City Controller and other appropriate City officials to secure City funding for this reimbursement through City Certificates of Participation (COPs) or another appropriate City funding vehicle; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments or other modifications to the DDA and (including preparation and attachment of, or changes to, any or all of the exhibits) that the Executive Director, in consultation with the City Attorney, determines are in the best interests of the City, do not materially decrease the benefits or otherwise materially increase the obligations or liabilities of the City or Port, and are necessary or advisable to complete the transactions that the DDA contemplates and effectuate the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of such additions, amendments or other modifications to the DDA and Venue Leases, provided, however, that significant changes in the structure of the DDA or the parties obligations therein shall be subject to further Port Commission consideration and final approval; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director and any other appropriate officers, agents or employees of the City to take any and all steps (including the execution and delivery of any and all certificates, agreements, notices, consents, escrow instructions, closing documents and other instruments or documents) as they or any of them deems necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions under the DDA, in accordance with this resolution, or to otherwise effectuate the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by any such person or persons of any such documents; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director to represent and bind the Port by representations and information submitted as part of securing BCDC approvals of amendments to BCDC Plans and a Major Permit required to implement the 34th America's Cup; and be it further

RESOLVED, That the Port Commission approves, confirms and ratifies all prior actions taken by the officials, employees and agents of the Port Commission or the City with respect to the DDA and related documents.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of December 16, 2011.

Secretary

Attachment D: Remaining Terms of Development and Disposition Agreement

This Attachment provides a summary of the terms of the proposed Development and Disposition Agreement ("DDA") that are not outlined in the staff report. A copy of the DDA is on file with the Port Commission Secretary.

Construction Scope of Work/Construction Documents

The DDA has provisions governing construction documents and Scopes of Work, including:

- A Scope of Work can be revised from time to time;
- Deferred Additional Work (Pier 26-28) will be determined under a separate Scope of Work agreed-upon at time of the applicable Long-Term DDA/Long-Term Lease;
- The Port has approval over construction documents in its proprietary and regulatory capacity, but must exercise approval in its reasonable discretion, subject to arbitration provisions; and
- The Port must approve construction documents within 30-days of submittal.

Provisions Governing Construction

The DDA has provisions governing Authority construction activities, including:

- The Authority must submit quarterly financial reports to provide the Port with a good faith estimate of its Authority Infrastructure Work costs (the Investment Value Estimate), based on its Guaranteed Maximum Price (GMP) contracts and costs incurred to date of report;
- The Authority will invite the Port to weekly progress meetings and will disclose anticipated cost and Scope of Work changes at such meetings;
- Within 60 days after DDA is signed, the Authority will provide Port with its Pre-Development Costs (all soft costs related to event pre-DDA);
- For each Scope of Work, within thirty (30) days after approval of Scope of Work, the Authority will provide Port with estimated budget for the Scope of Work and evidence of availability of funds to complete the improvements;
- The Port will have five (5) days after submittal of budgets to object to any item that it believes is not within an approved Scope of Work, with disputes subject to arbitration;

- From and after issuance of first building permit for a Scope of Work, the Authority will submit monthly reports showing any changes in the estimated costs and anticipated change orders;
- At earliest feasible opportunity (including weekly progress meetings), the Authority will share with Port any requests for change orders or changes in project schedule or scope of work, and changes that would result in any line item exceeding 10% of estimated budget;
- If anticipated changes that would exceed 10% of estimated budget, the Authority will consult with the Port to discuss cost-containment and value-engineering measures;
- The Authority will provide the Port with 30-days' notice before negotiating GMP contracts for the Scopes of Work, to allow Port ability to obtain its own cost estimates;
- The Port must review bid packages and can approve changes in any Scope of Work, including review of cost increases;
- The Authority will provide a Completion Guaranty of its improvement obligations, but only to extent necessary to restore a particular Venue to in a condition as good as when it was delivered;
- The Authority's Completion Guaranty may also be used to secure the \$24 million obligation that is a pre-condition to actual fee transfer of Seawall Lot 330;
- The Authority and the Port will establish final Project Costs to determine Investment Value as follows:
 - Within 60-days after effective date of DDA, the Authority will provide a statement of all pre-development costs;
 - Within 120 days after completion of each scope of work, the Authority will furnish an itemized statement certified by its CFO or an independent CPA of all Project Costs; and
 - The Port has right to audit the Authority's books and records to establish 'Certified Project Costs' for each Scope of Work, with audit differences of more than 5% compared to Authority Project Costs paid for by Authority;
- The Authority will provide construction-related insurance requirements, as set by the City Risk Manager; and

- The Authority will adhere to a Workforce Development Plan, including City requirements such as First Source Hiring and prevailing wage, for all construction work.

Casualty/Risk of Loss

If casualty (earthquake, fire or other major property damage) occurs to any Venue pre-delivery, the Port has the obligation to provide functionally equivalent site. If it occurs pre-delivery for a venue with major construction, and any required repair is less than \$500,000, the Authority must still accept premises and repair costs are subject to reimbursement. However, if the casualty occurs before delivery of the Venue and repair costs exceed \$500,000, the Authority has the option to terminate or accept delivery. In this event, the Port will not be obligated to pay for repair costs beyond available insurance proceeds.

Defaults and Remedies

The DDA provides for the following Authority defaults and remedies:

- If the Authority fails to make a payment that is not cured within 30 days, the Port may add the unpaid amount to the Legacy Value (e.g., what it is providing to the Authority for Investment Value);
- If the Authority fails to comply with Workforce Development Plan, the remedies are limited to those described in that Plan;
- If the Authority's Guarantor fails to perform or falls below net worth test and Authority doesn't replace the Guaranty within 30-days, the Port may terminate the DDA;
- If the Authority fails to comply with any other of its obligations under the DDA and is not cured within 30-days, or the Authority is not diligently pursuing a cure, the Port may terminate the DDA or pursue an action for specific performance and damages;

Where an Event of Default would materially impair the Authority's ability to stage the Event in the City or impair its long-term development rights, Authority may cure the default by paying to the Port the amount of damages that the Port has incurred due to the default.

The DDA provides for the following Port defaults and remedies:

- If the Port fails to deliver a Venue or functionally-equivalent space acceptable to the Authority when required, the Authority may terminate.

- If the Port fails to perform any other obligation and the default remains uncured within 30-days or can't be cured within 30-days, the Authority may terminate the DDA or pursue an action for specific performance or damages limited to \$32 million ACOC bond.

Dispute Resolution

The DDA provides for an expedited arbitration procedure in place for certain disputes, including:

- Whether a work of improvement is a Regulatory Condition of Approval;
- In the event of a casualty occurring to a Venue before its Delivery, whether the cost of repairs would add more than \$500,000 to the Estimated Scope of Work Cost;
- Approval or Disapproval of Construction Documents and related matters;
- Conflicts between Project Requirements and other Governmental Requirements;
- Whether a space offered by the Port in lieu of a Venue is considered functionally equivalent;
- Whether or not an item is within the Approved Scope of Work; and
- Whether the Port has failed to issue a Temporary Certificate of Occupancy.

Attachment E: Scope of Work and Port Approvals

Authority Infrastructure Work – Pre-Match Scope of Work Requirement

Based on the Port's review of the proposed Scope of Work and associated cost estimates, including review by the Port's third-party engineering consultants of key elements, the Port finds that the Event Authority has met the requirements of Section 6.5 of the Host and Venue Agreement to identify a minimum scope of work for the Authority Infrastructure Work with an estimated cost of \$55 million to be constructed before the Match.

This Scope of Work approval applies to work proposed by the Event Authority that is contemplated in the Final Environmental Impact Report for the 34th America's Cup and the James R. Herman Cruise Terminal and Northeast Wharf Plaza, and is in the process of being reviewed and permitted by the U.S. Army Corps of Engineers, NOAA Fisheries Service (NOAA Fisheries), the California Department of Fish & Game, the San Francisco Bay Regional Water Quality Control Board (RWQCB), the San Francisco Bay Conservation and Development Commission, and the Port.

The Scope of Work approval is conditioned on receipt of permits required for the proposed work, and submission of 30% designs and cost estimates for the work proposed. The Disposition and Development Agreement provides a mechanism for the Event Authority to propose modifications to the proposed Scope of Work and to propose new work at one or more Venues, either before or, at designated Venues, after the Match.

Authority Infrastructure Work Proposed Scope of Work and Port Approvals

The Event Authority proposes to conduct the following Authority Infrastructure Work before the Match, pursuant to Section 6.2 of the Host and Venue Agreement:

Pier 30-32 Improvements

Event Authority Proposed Scope of Work: The Event Authority proposes to make a number of temporary and permanent improvements and repairs to Piers 30-32 to support full access and team base operations.

The proposed improvements include:

- A permanent infill structure to raise the existing depressed valley (approximately 3'6" deep) between Piers 30 and 32 to provide a level surface throughout the Pier. The infill structure will consist of a reinforced concrete slab and beam system supported on short (approximately 2 feet high) columns, which are located directly over existing piling.

- Permanent roadways along the eastern, northern, southern perimeter and in the new infill area at the center for emergency vehicle access, truck delivery, and 300 ton truck crane access for team base erection.
- Pads for tower cranes along the southern edge of the Pier 32 to launch and retrieve vessels;
- Most of the Piers 30-32 deck and supporting piles (except for roadways and crane access areas) will be repaired as required to support 250 PSF live load and light vehicles (H10 loading with maximum wheel load of 8 kips) and loads associated with moving racing vessels around on wheeled cradles. Roadways areas will be strengthened to support HS20 Truck loading. Crane access areas will be strengthened to support crane loads.
- Seismic strengthening of the Piers 30-32 substructure, including separating the piers from the marginal wharf by creating a seismic joint between the two structures. The creation of seismic joint will require about 39 new 18" diameter concrete piles (this number could be as high as 45 subject to final determination by the Port's Chief Harbor Engineer) to support marginal wharf. The seismic strengthening of Piers 30-32 will involve installation of 42-6 foot diameter steel piles in groups at four locations with a concrete cap beam at each location.

Based on a detailed investigation performed, approximately 25% of the older concrete caisson piling is deteriorated due to environmentally induced corrosion and wave action. These piles will be repaired by installing a new reinforced concrete jacket extending from the pile cap to the seabed (with formwork left in place). A number of piles will receive crack repairs such as epoxy injection or concrete patching at the top near their connection to the beam and slab deck. No more than 10 existing piles in deteriorated condition will be replaced in their entirety.

Portions of the substructure deck framing will be repaired or replaced as needed. Selective demolition of the existing deck is required to drive the piles and a new concrete beam and deck system will replace any demolished areas.

Utilities

Piers 30-32 currently has a working water meter and a number of small diameter water lines along the south edge of Pier 32 and in the center depressed area. A new 4" ductile iron water line from an existing 8" main in the Embarcadero will be installed under the deck slab to the center depressed area where the 4" line will be below new raised deck slab in the "crawl space."

The on-site sewer collection and conveying system includes 3" force mains under the team support module to a package lift station located at the center of team bases between Team Bases 5 and 6. From the package lift station, the sewage will be pumped through a new 4" force main through the center depressed area and on to an

existing pump station where the station will be equipped with duplex vertical turbine pumps that each alone has the sufficient capacity to discharge the sewage through an existing below-deck, 4" force main to the City gravity system in the Embarcadero. New hangers will be installed to support the 4" force main.

Post-construction BMPs will be installed as part of the deck infill/replacement project to provide additional protections to water quality. The Event Authority will install shallow treatment filters along a significant portion of these piers. The intent will be to maintain the existing grades and install shallow treatment filters at several existing storm drain inlets. The shallow treatment filters are typically granular activated carbon and debris filters with replaceable cartridges.

Stormwater management features will be constructed consistent with the San Francisco Stormwater Management Guidelines will be installed in coordination with the San Francisco Public Utilities Commission (SFPUC) as detailed in a Stormwater Control Plan.

Soft Costs and Regulatory Requirements

Soft costs for this work include direct costs of developing design and engineering plans for this work. Regulatory requirements include all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Port Approval: The Port approves all deck and non-seismic structural improvements to Piers 30-32, except as noted below, subject to final approval of a Stormwater Control Plan for the site.

Please provide the following revisions to the AECOM proposed structural alteration plan for Pier 30-32:

1. Consider deleting the requirement for structural alteration for drainage leveling of approximately 18,000 square feet on the south side of Pier 30-32, adjacent to the crane lift area and north of the originally proposed south access roadway location. Demonstrate the minimum leveling needed from an operational standpoint and consider a non-structural paving solution.
2. The 30% structural alteration seismic trigger as per Port Building Code Section 3404.7 is assumed to be exceeded. Perform a non-linear response history (time-history) analysis using past earthquake events as suggested by the BCDC Engineering Criteria Review Board.

The Port conditionally approves the proposed forty-two (42) 6 foot steel seismic piles, or any portion thereof, as well as the proposed seismic joint, if required to meet Port Building Code's seismic requirements. The Event Authority shall continue to consult with the Chief Harbor Engineer about methods to meet seismic code requirements.

Regardless of whether the full forty-two (42) pile seismic pile upgrade and the seismic joint are constructed pre-Match, this work shall be deemed Authority Infrastructure Work if constructed within five years after the Match.

The Port approves water and wastewater utility upgrades. Approval of stormwater improvements is subject to final approval of a Stormwater Control Plan.

The Port approves all regulatory requirements, including all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit details regarding soft costs. Legal costs are not eligible as reimbursable costs.

Pier 27-29 Improvements

Event Authority Proposed Scope of Work: The Event Authority proposes to make permanent upgrades and repairs to make the following improvements to Piers 27-29:

1. Demolish Pier 27 shed.
2. Demolish the Pier 27 Annex Building
3. Install 121 shallow stormwater catch basins¹⁶ in the ground transportation area, the north park area and the Pier 27 eastern apron according to an approved Stormwater Control Plan for the Piers 27-29 facility.
4. Pier 29 substructure repairs.

Repair 11-15 piles with reinforced concrete jackets.

5. Demolish a portion of Pier 29 shed and construct new Pier 29 shed east/corner wall consistent with Secretary of the Interior's Standards for Treatment of Historic Properties.

Consistent with the recommendations of the memorandum prepared by Architectural Resources Group, "America's Cup Improvements, Piers 27-29, Project Consistency with the Secretary's Standards," memorandum to AECOM, dated April 13, 2011, demolish not more than 21,915 square feet of the Pier 29 transit shed, including not more than 210 feet of the historic north wall.

Construct a new east/corner wall for Pier 29, separated from the existing walls of the shed by a shallow reveal, distinguishing the new construction from the historic structure.

¹⁶ Kristar Model FB24 Stormwater Catch Basins

Port Approval: The Port will undertake demolition of the Pier 27 and 29 sheds, along with the Pier 27 Annex Building to facilitate coordination with cruise terminal construction and site staging. The Port approves all other proposed work, subject to final approval of Stormwater Control Plan for the site. Pursuant to further discussions with the Event Authority, the Port retains the option to conduct other elements of this proposed Scope of Work in the Pier 27-29 area until such time as the Event Authority has entered construction contracts to perform that work.

The Port approves all regulatory requirements, including all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit details regarding soft costs. Legal costs are not eligible as reimbursable costs.

Piers 32-36 Brannan Street Wharf Open Water Basin

Event Authority Proposed Scope of Work: To provide sufficient water depth for boat clearance, dredging and pile removal will be conducted within the Piers 32-36 Open Water Basin. Approximately 110,000 cubic yards (cy) of sediment will be dredged from this area. This total consists of a portion of dredging at a depth of approximately -15 feet Mean Lower Low Water (MLLW), plus a -2 feet for overdepth allowance. The sediment will be characterized and tested for multiple disposal options through the Dredged Material Management Office (UASCE, EPA, BCDC, RWQCB, SLC, state and federal wildlife agencies), which agencies make sediment suitability determinations through the sediment sampling and testing process. Piles will be removed, including the portion of piles beneath the mudline, to the extent feasible.

Port Approval: The Port approves dredging and pile removal in the area immediately to the south of Pier 32 in an area sufficient to provide access by AC72 catamarans to the proposed cranes along the south face of Pier 32, and to provide access to any large spectator vessels that will moor along the south face of Pier 32. The portion of this work related to mooring and access for large spectator vessels shall be deemed as Additional Work for purposes calculating Marina Rent Credits and for triggering the Event Authority's long-term marina rights in this area.

The Port conditionally authorizes dredging and pile removal in the area proposed for mooring of the AC72 catamarans in the Piers 32-36 Brannan Street Open Water Basin. The Event Authority shall use reasonable efforts to limit the proposed dredge to serve the number of AC72 catamarans that will actually be competing (and thus require mooring locations). To the extent that fewer mooring locations are required, the Event Authority will reduce the proposed dredge area by moving the southern boundary of the dredge to the north, first eliminating the portion of the proposed dredge under the former footprint of Pier 36. The Port will coordinate with the Event Authority to request that America's Cup Race Management survey the competing teams prior to the proposed

dredge to determine minimum dredge depth requirements. The Port will provide final approval of the remainder of this proposed dredge no later than June 1, 2012.

The Port approves all regulatory requirements, including all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit detail regarding soft costs. Legal costs are not eligible as reimbursable costs.

Pier 19 Apron Repair and Pier 23 Handrail

Event Authority Proposed Scope of Work: To fulfill BCDC public access requirements for the Event, repair the Pier 19 south apron. This work consists of replacing up to 74 new bearing piles. The work also includes demolishing and disposing 2,800 square ft. of rotted decking and stringers and replacing with new. 702 linear feet of cap beams will also be replaced. Install a permanent 760 lf handrail along the Pier 23 north apron.

Port Approval: The Port approves all regulatory requirements, including Pier 19 repair and the Pier 23 handrail, and all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit details regarding soft costs associated with construction of the Pier 23 handrail. The Port paid for soft costs associated with Pier 19 south apron repair and provided these designs to the Event Authority. Legal costs are not eligible as reimbursable costs.

Pier 64 Pile Removal and Caspian Tern Replacement Nesting Platform and Pier ½ Pile and Deck Removal

As a proposed public benefit associated with the proposed use of areas designated by the Bay Conservation and Development Commission and to mitigate for fill and habitat impacts associated with the RWQCB and the NOAA Fisheries Service permitting, the Event Authority proposes to remove Pier 64 near Mission Rock. This pier consists of a collection of remnant piles adjacent to the Mission Bay Bayfront Park encompassing approximately 234,250 square feet of water area.

It is possible the proposed fill removal at Pier 64 could result in the loss of approximately 1,500 sq ft platform used by Caspian terns. As part of the proposed fill removal project, the Event Authority will create a 1,500 sq ft bird platform that can withstand 100-year base flood conditions and sea level rise to 2050. The platform would require approximately 8 - 16" concrete or steel piles (approximately 12 sq ft of replaced

permanent fill). This platform will be a net legacy improvement for Caspian terns since the existing platform is dilapidated and likely would not hold up much longer.

As a further BCDC public benefit and fill mitigation for the RWQCB, the Event Authority proposes to remove Pier ½ located between the Ferry Building and Pier 1. Removal of this pier including supporting piles, caissons and the pier deck would open up approximately 21,187 sq ft of decking over the water.

Port Approval: Consistent with discussions with the RWQCB and other resource agencies, the Port approves the proposed Scope of Work, subject to the Event Authority's agreement to implement a comprehensive approach for removing piles at both Pier 64 and Pier ½. Specifically, the preferred method of removal will be removal of piles through vibratory extraction, followed by direct pull, clamshell removal and cutting, as necessary based on site-specific investigations, consistent with the approaches identified in the Subtidal Habitat Goals Report to remove piles.

The Port approves all regulatory requirements, including Pier 64 removal and a replacement Caspian Tern nesting platform, Pier ½ removal, and all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit details regarding soft costs. Legal costs are not eligible as reimbursable costs.

Additional Work Pre-Match

Event Authority Proposed Scope of Work: The Event Authority proposes to conduct the following Additional Work before the Match, pursuant to Section 6.7(a) of the Host and Venue Agreement:

Piers 28-30 Water Basin

To accommodate sponsor and spectator boats, dredging will be necessary on the south side of Pier 28 to achieve a depth of - 12 ft MLLW. Approximately 5,000 cy of sediment will be characterized and tested for various disposal sites through the DMMO regulatory process.

North of Pier 14 and Piers 14-22½ Rincon Point Open Water Basin

To accommodate temporary berthing of spectator and Event sponsor vessels, dredging north and south of Pier 14 to a depth of - 12 ft MLLW. Approximately 24,000 cy will need to be dredged and disposed of through the DMMO regulatory process.

Pier 9

To accommodate spectator vessels, dredging a depth of -12 ft MLLW. Approximately 10,000 cy will need to be dredged and disposed of through the DMMO regulatory process.

Port Approval: The Port approves the proposed dredging subject to approval by the Dredged Material Management Office. The southern boundary of the dredge proposed in the Rincon Point Open Water Basin shall be to the north of the northern boundary of Rincon Park to preserve open water views for the public.

The Port approves all regulatory requirements, including all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit detail regarding soft costs. Legal costs are not eligible as reimbursable costs.



MEMORANDUM

December 9, 2011

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Ann Lazarus, Vice President
Hon. Francis X. Crowley
Hon. Doreen Woo Ho
Hon. Leslie Katz

FROM: Monique Moyer 
Executive Director

SUBJECT: Informational Update on the Establishment of a Port Infrastructure Financing District

DIRECTOR'S RECOMMENDATION: Informational Item – No Action Required

OVERVIEW

Since 2005 the Port has studied the potential of an Infrastructure Financing District ("IFD") as a financial mechanism making tax increment available as a source for future Port capital needs. Port staff is prepared to commence the process of establishing an IFD encompassing all of Port property. The process would commence with a Board of Supervisors resolution of intention to establish the IFD.

BACKGROUND

As described in September 13, 2005 and April 2, 2008 Port Commission staff reports, Government Code Sections 53395 et seq. ("IFD Law") allow public agencies, including the City, to finance public infrastructure improvements by capturing and bonding against property tax increment generated in the IFD after it is established. To do so, the public agency must follow a multi-step process that includes approval of a financing and infrastructure plan by the Board of Supervisors.

IFD Law was crafted to allow IFDs to function much like redevelopment project areas. In this regard, IFDs do not increase tax rates, rather, they rely on increases in the property tax base within the IFD. Like redevelopment, the fundamental justification for tax increment financing is the notion that but for public and private investment made possible by tax increment financing, development and the resulting property tax increases would not occur.

THIS PRINT COVERS CALENDAR ITEM NO. 9C

In contrast to redevelopment law, the IFD Law does not require the public agency to make a finding of blight or require a set aside of a portion of the tax increment for affordable housing (except when the projects to be financed through the IFD displace housing). Under general IFD Law, IFDs also differ from redevelopment in another major respect: in redevelopment areas, unlike IFDs, the local jurisdiction can override complex state tax laws allocating approximately 25% of local property taxes to the State of California's Educational Revenue Augmentation Fund ("ERAF").

In 2005, Port staff worked with State Lands Commission (State Lands) staff and Senator Carole Migden to amend the IFD Law – through SB 1085 – to permit its use on Port property. Subsequently, working with Assemblymember Tom Ammiano and State Lands staff, further changes were made to the IFD Law through AB 1199 in 2010 and AB 664 in 2011. The highlights of these changes to IFD Law specific to San Francisco include:

- Authorizing the Board of Supervisors to form IFDs on Port property (called waterfront districts), including property subject to tidelands trust for commerce, navigation and fisheries and the Burton Act trust (the “public trust”), to finance public infrastructure where all of the property in the district is publicly-owned without an election, by the adoption of an ordinance;
- Specifying additional examples of infrastructure improvements that qualify for infrastructure financing district funding, including seismic and life-safety improvements to existing buildings, rehabilitation, restoration, and preservation of historic structures, remediation of hazardous materials, removal of bay fill, utility infrastructure improvements, and shoreline restoration and structural repairs and improvements to piers, seawalls, wharves, and other maritime facilities;
- Requiring that 20% of the tax increment that the Port receives from an IFD be set aside for shoreline restoration, removal of bay fill, or waterfront public access to or environmental remediation of the San Francisco waterfront;
- Authorizing the establishment of project areas within Port waterfront districts, each with a distinct base year and authorizing allocation of the tax increment from each project area for up to 45 years; and
- Authorizing the establishment of project areas at Pier 70 and at the America’s Cup Venues as “special waterfront districts” that are authorized to receive an allocation of tax increment including the State’s ERAF share (limited to \$1 million per year in the America’s Cup special waterfront district) for up to 45 years.

PROCESS TO ESTABLISH PORT IFD

In order to start realizing the benefits of the IFD Law, first Port property must be established as an IFD. The IFD Law generally requires that tax increment proceeds from a waterfront district be spent within the boundaries of the IFD. By establishing a port-wide IFD, any tax increment collected in the project areas to be formed by the legislation being presented to the Board will be eligible to be spent on Port infrastructure projects district-wide, even if the benefitted Port property is not within the project area.

To establish the port-wide IFD, first the Board of Supervisors must pass a Resolution of Intention to Establish Infrastructure Financing District. This serves as a notice to the public of the City's intent. Subsequently the Board of Supervisors would need to pass an ordinance to establish the port-wide IFD supported by an Infrastructure Finance Plan (Finance Plan) indicating where the IFD funds can be spent. The port-wide Finance Plan will indicate generally the type of Port projects eligible for IFD monies similar to the Port's 10-Year Capital Plan.

Concurrently or after establishment of a port-wide IFD the Port can request the Board of Supervisors to pass ordinances to establish project areas within the port-wide IFD. An ordinance establishing a project area would authorize allocation of the project area tax increment to the project area for up to 45 years. An IFD project area ordinance also requires inclusion of a detailed Finance Plan indicating the tax increment expected to be generated from development within the project area including a maximum total increment that can be allocated to the IFD and identifying specific Port infrastructure projects to be funded by the project area tax increment. The Finance Plan would establish whether the project area tax increment would be spent entirely within the project area, or be used elsewhere within the district, but outside of the project area.

In the resolution of intention to establish the Finance Plan, Port staff has provided notice of intent to form project areas on sites where, through Port development projects and the America's Cup, the Port Commission has indicated it may consider establishing IFD project areas in the future. These sites include:

- Seawall Lot (SWL) 330
- Piers 30-32
- Pier 26
- Pier 28
- SWL 351
- SWL 337
- Pier 48
- Pier 70

SWL 330, Piers 30-32, Pier 26 and Pier 28 are sites called out as long-term development where the City has an obligation to form an IFD project area pursuant to the America's Cup Host and Venue Agreement (HVA). The other properties are subject to Exclusive Negotiating Agreements with private developers where the Port Commission has indicated it may consider an IFD project area as part of these development projects in the future. For maximum flexibility in the timing of development and the flow of tax increment, each of these properties is called out as a separate project area.

NEXT STEPS

Port staff will seek the Board of Supervisors' approval of the resolution of intention to establish a waterfront IFD encompassing all Port property. Concurrently Port staff has commenced preparation of a Finance Plan for the port-wide IFD and supplemental Finance Plans for each of the project areas for current Port projects - America's Cup venues (SWL 330, Piers 30-32, Pier 26 and Pier 28) and SWL 351. The Finance Plan for the port-wide IFD and the supplemental Finance Plans will be brought to the Port Commission for its detailed consideration in early 2012. If approved by the Port Commission, each Finance Plan will be forwarded to the Board, where Port staff will seek their adoption by ordinance.

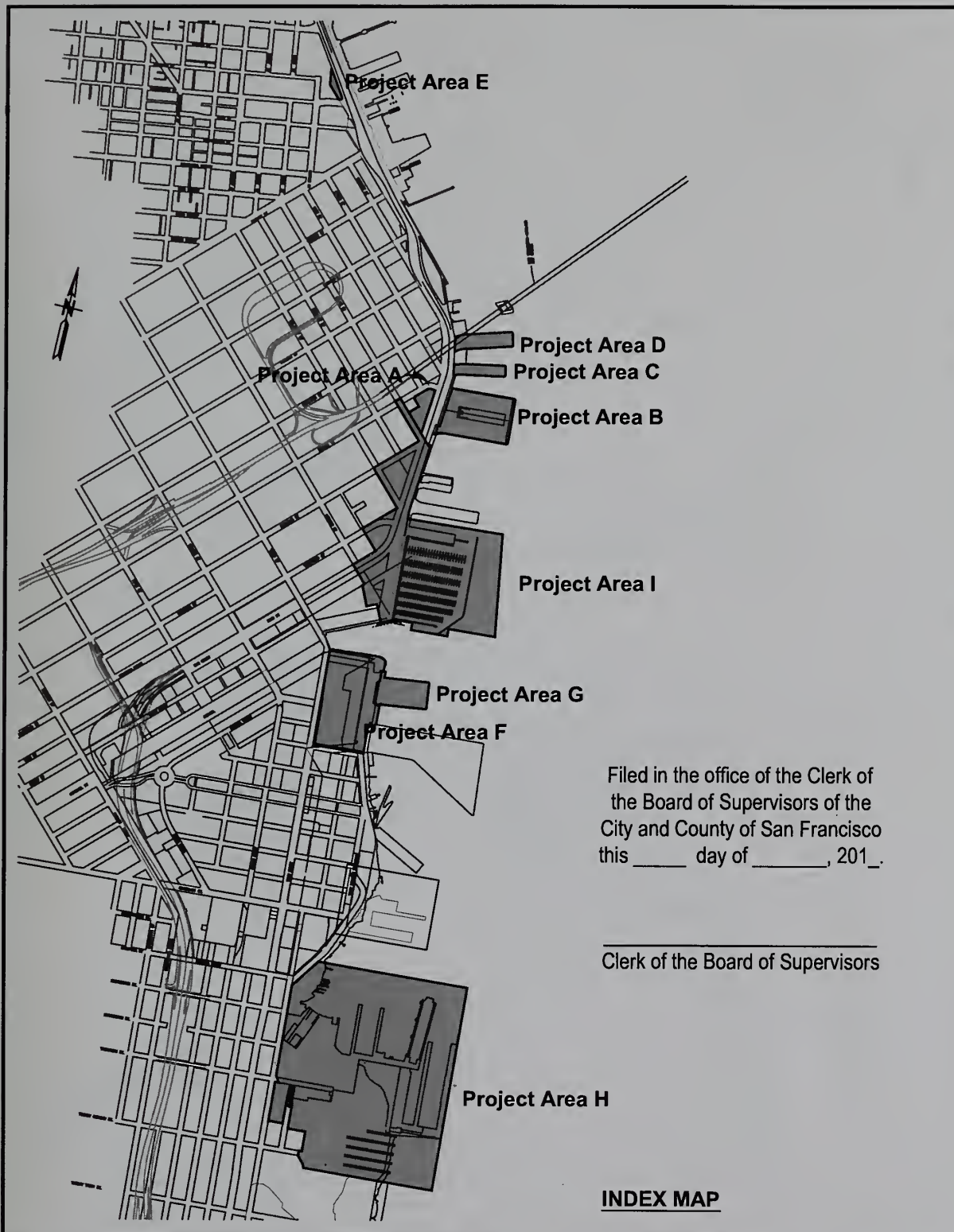
Prepared by: Jonathan Stern, Asst. Deputy Director, Planning & Development

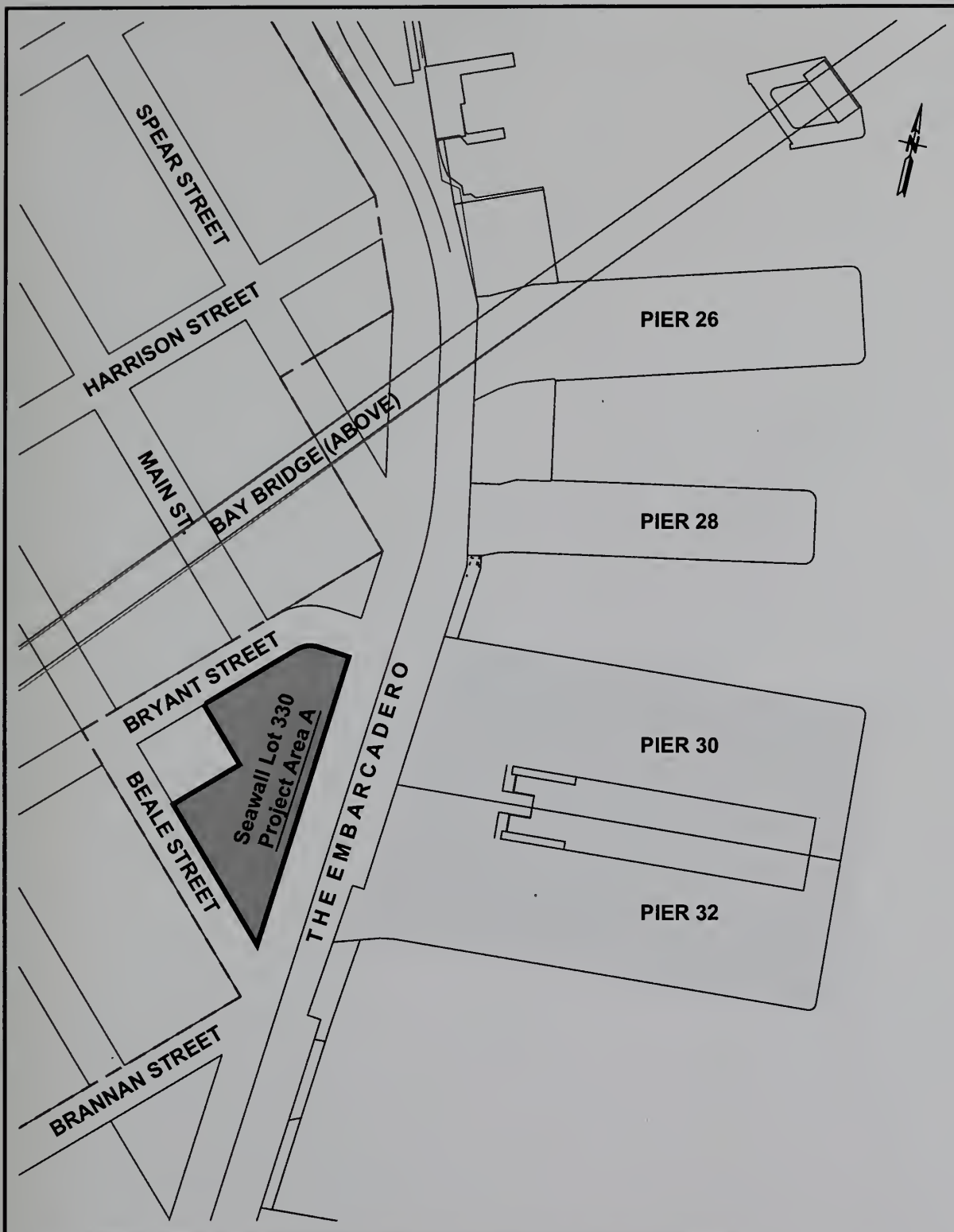
Attachment A: Map of IFD and Project Area Boundaries

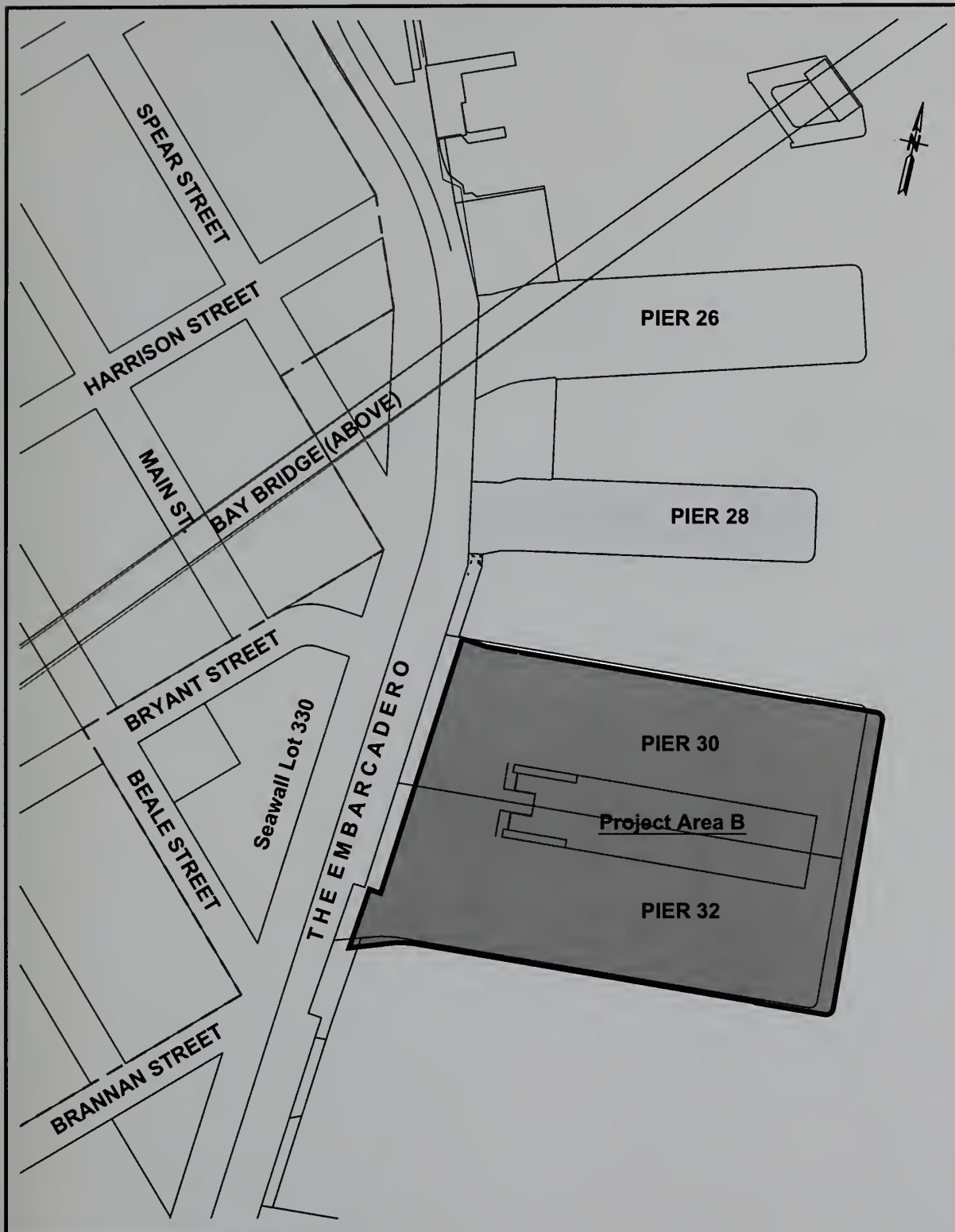
Attachment B: Resolution of Intention to Establish IFD

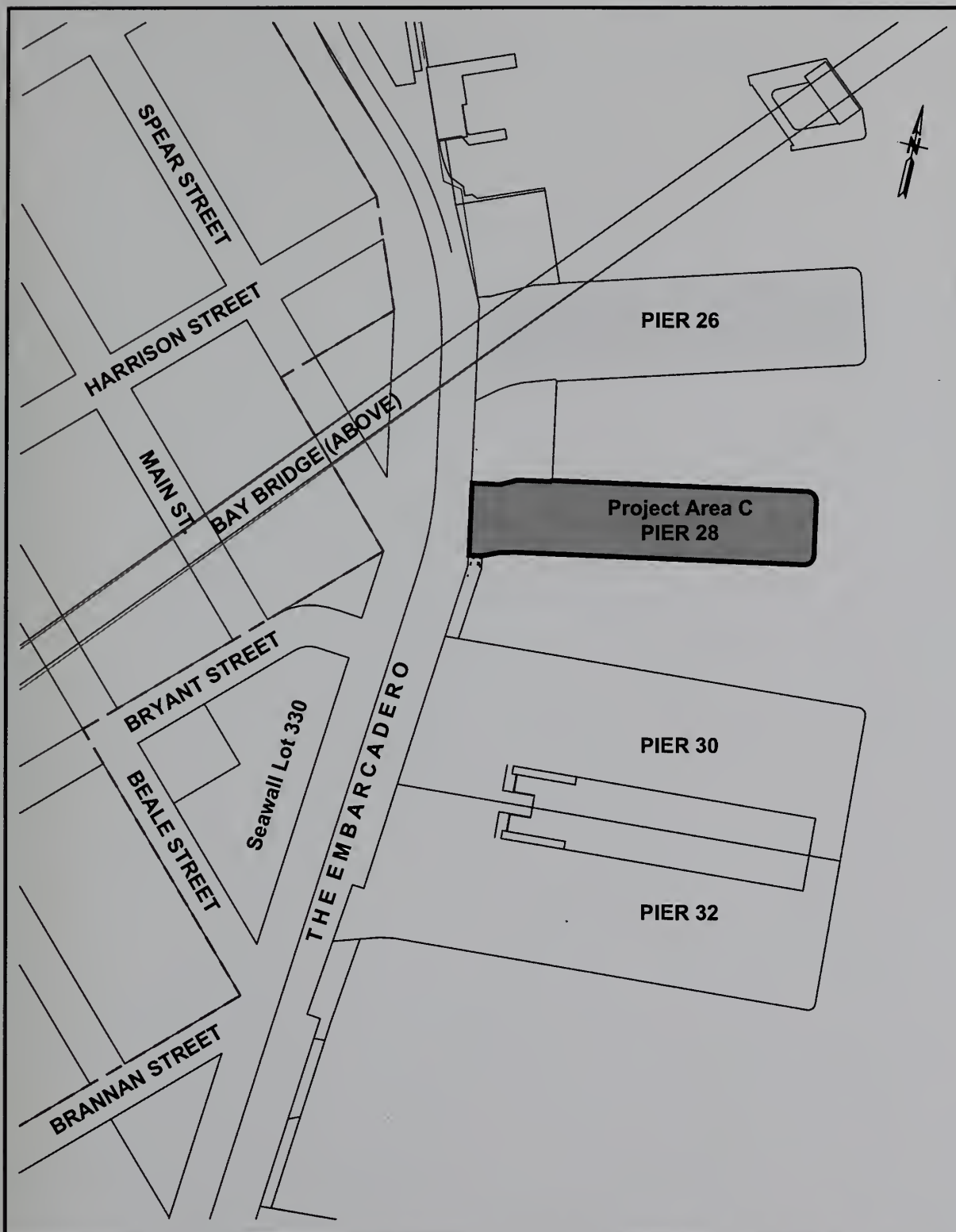
ATTACHMENT A
Type of public facilities proposed to be financed by the IFD

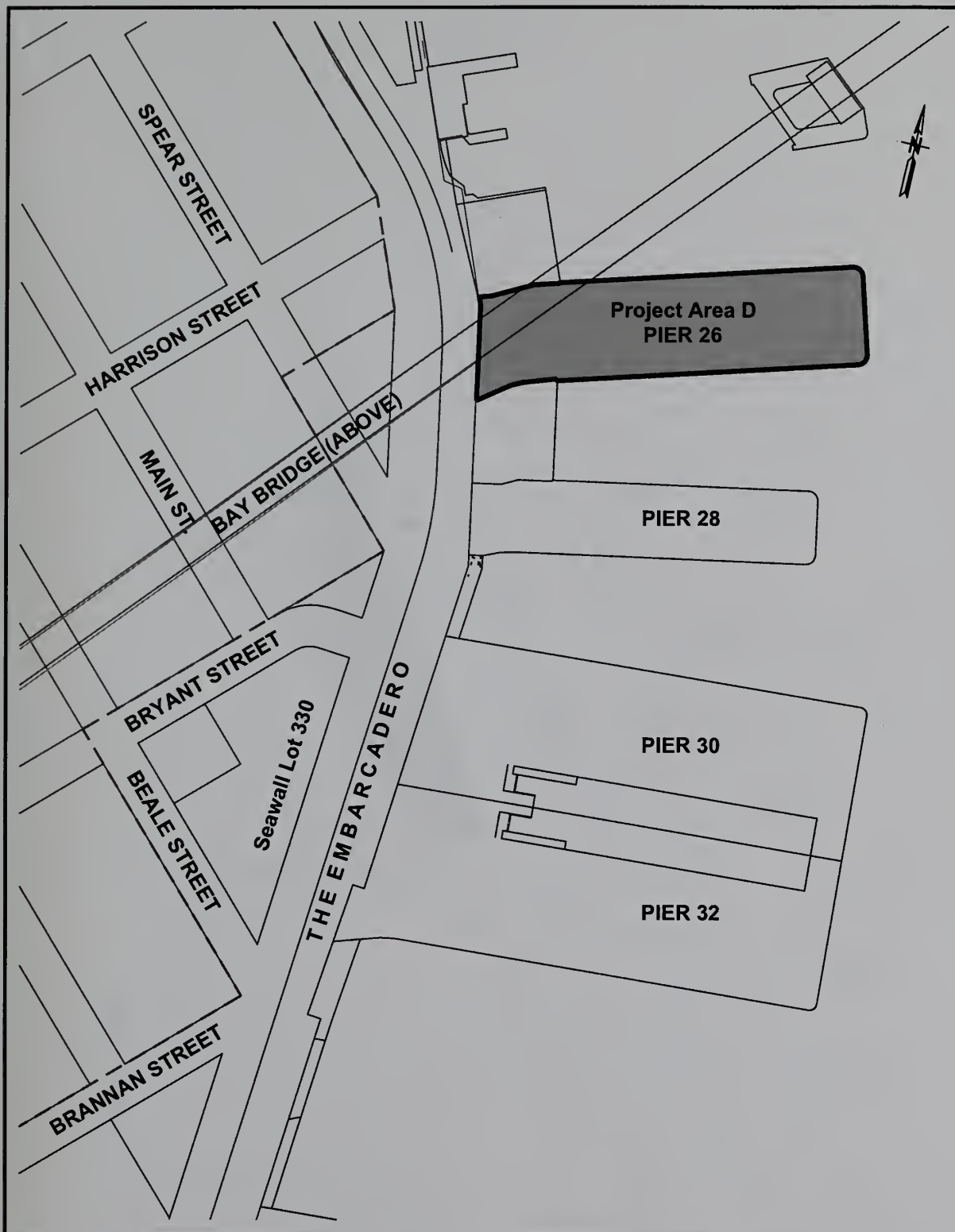
- (1) Remediation of hazardous materials in, on, under, or around any real or tangible property, including environmental remediation of the San Francisco waterfront.
- (2) Seismic and life-safety improvements to existing buildings.
- (3) Rehabilitation, restoration, and preservation of structures, buildings, or other facilities having special historical, architectural, or aesthetic interest or value and that are listed on the National Register of Historic Places, are eligible for listing on the National Register of Historic Places individually or because of their location within an eligible registered historic district, or are listed on a state or local register of historic landmarks.
- (4) Structural repairs and improvements to piers, seawalls, and wharves.
- (5) Removal of bay fill.
- (6) Stormwater management facilities, other utility infrastructure, or public open-space improvements.
- (7) Shoreline restoration.
- (8) Other repairs and improvements to maritime facilities.
- (9) Planning and design work that is directly related to any public facilities authorized to be financed by a waterfront district.
- (10) Reimbursement payments made to the California Infrastructure and Economic Development Bank in accordance with paragraph (5) of subdivision (d) of Section 53395.81.
- (11) To the extent not included in the foregoing, a special waterfront district may be used to finance the following:
 - (A) Construction of the port's maritime facilities at Pier 27.
 - (B) Planning and design work that is directly related to the port's maritime facilities at Pier 27.
 - (C) Planning, design, and construction of improvements to publicly owned waterfront lands held by trustee agencies, such as the National Park Service and the California State Parks, and used as public spectator viewing sites for America's Cup-related events, including the San Francisco Bay Trail along the Marina Green.
 - (D) Future installations of shoreside power facilities on port maritime facilities.
- (12) Other facilities authorized under the IFD Law.

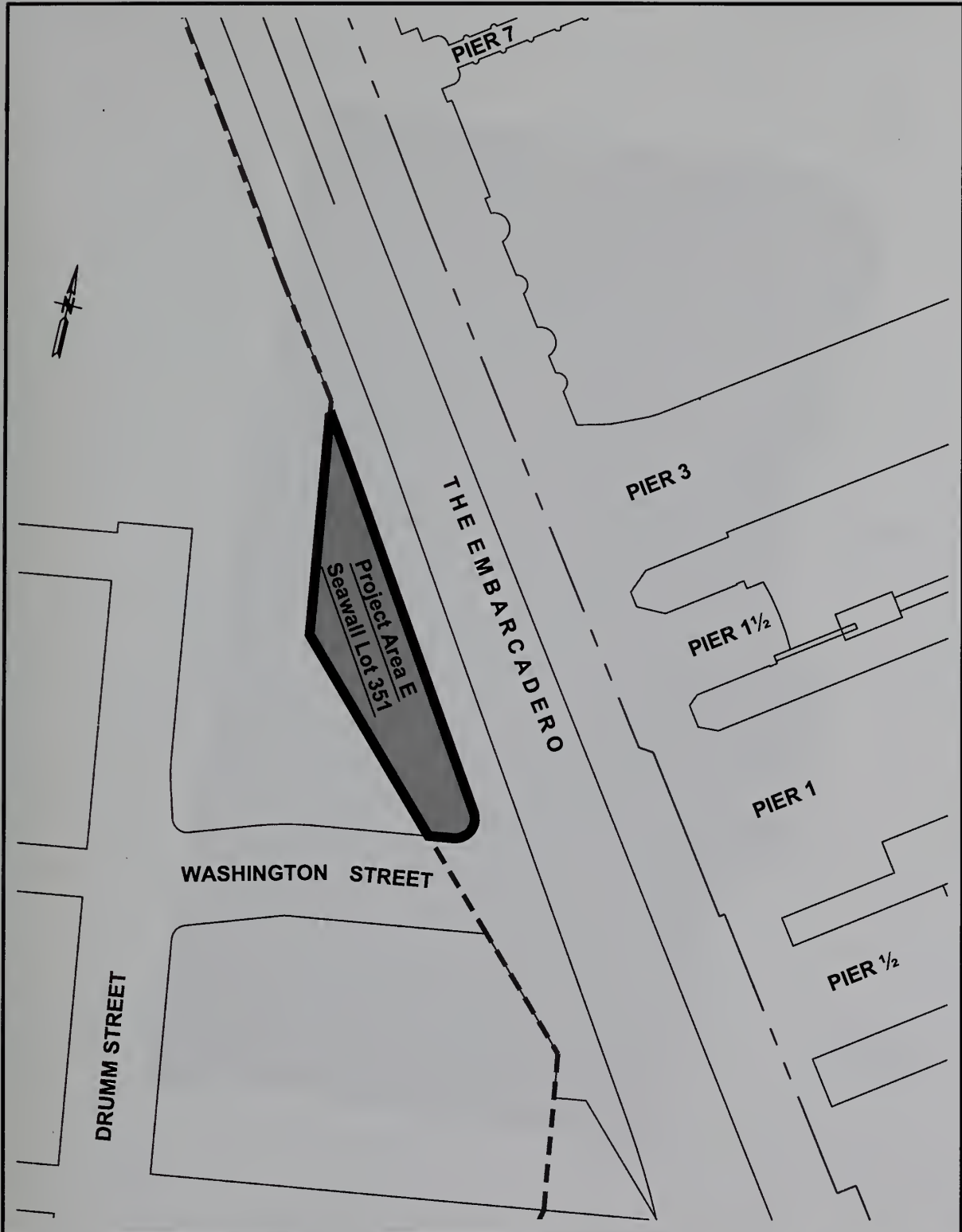


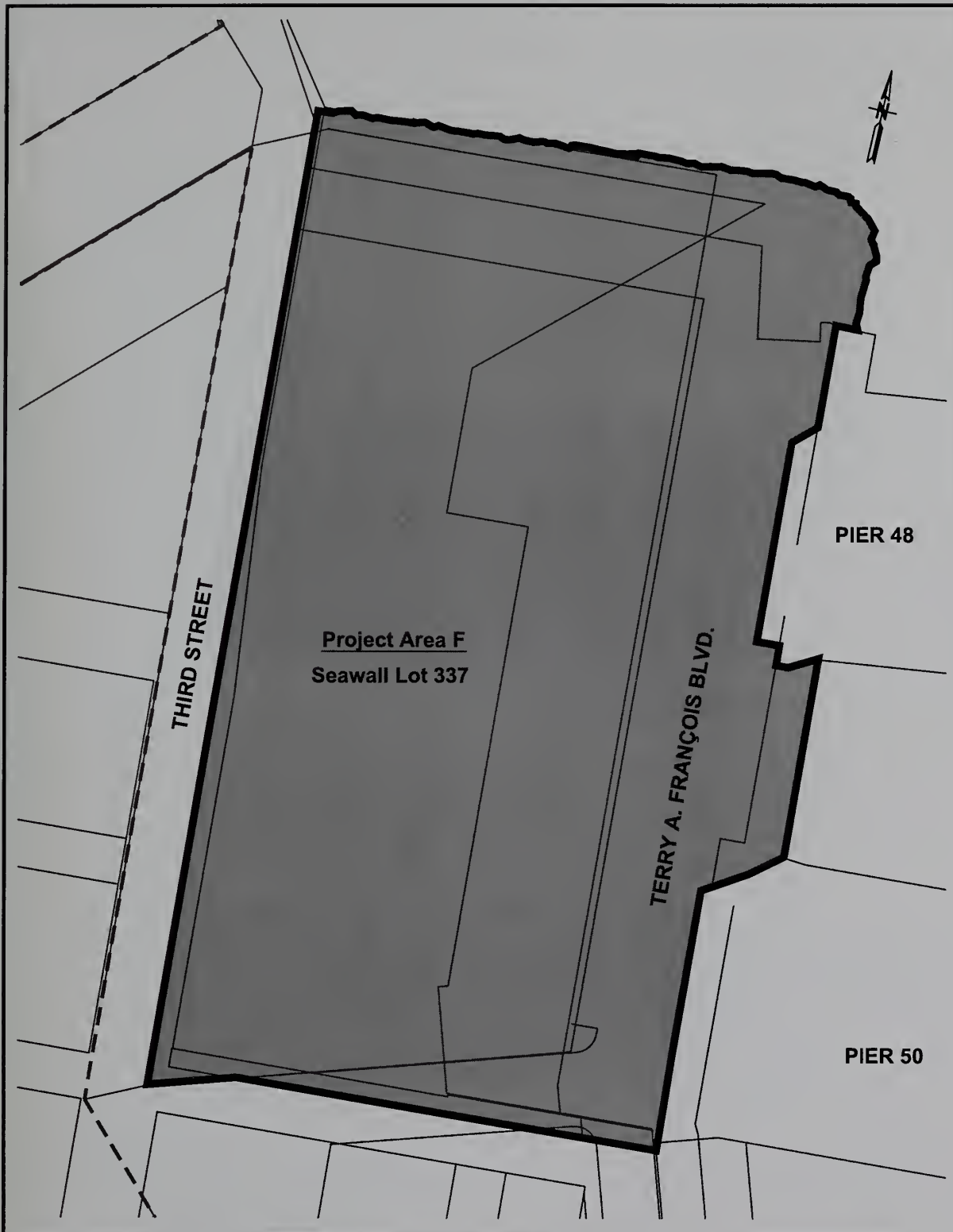


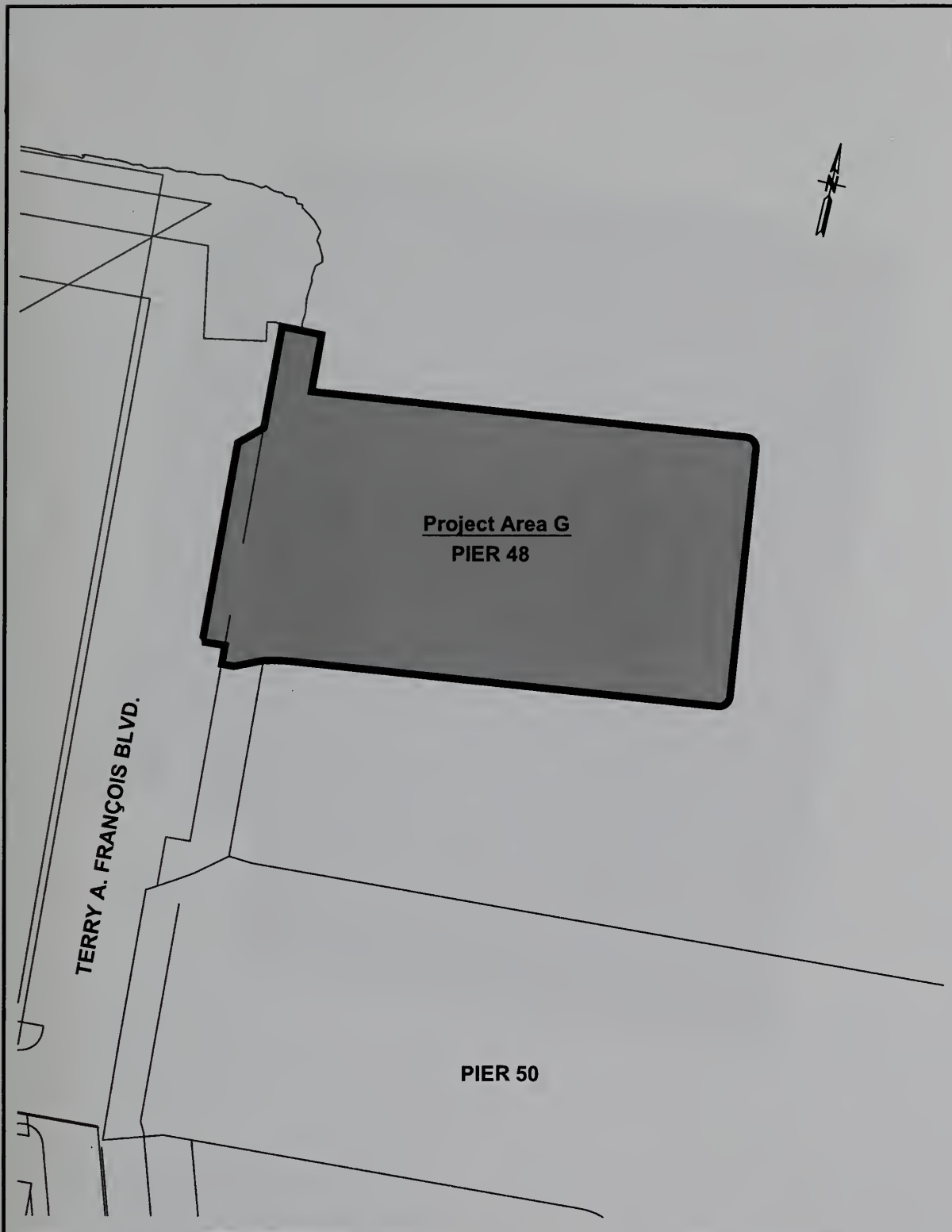


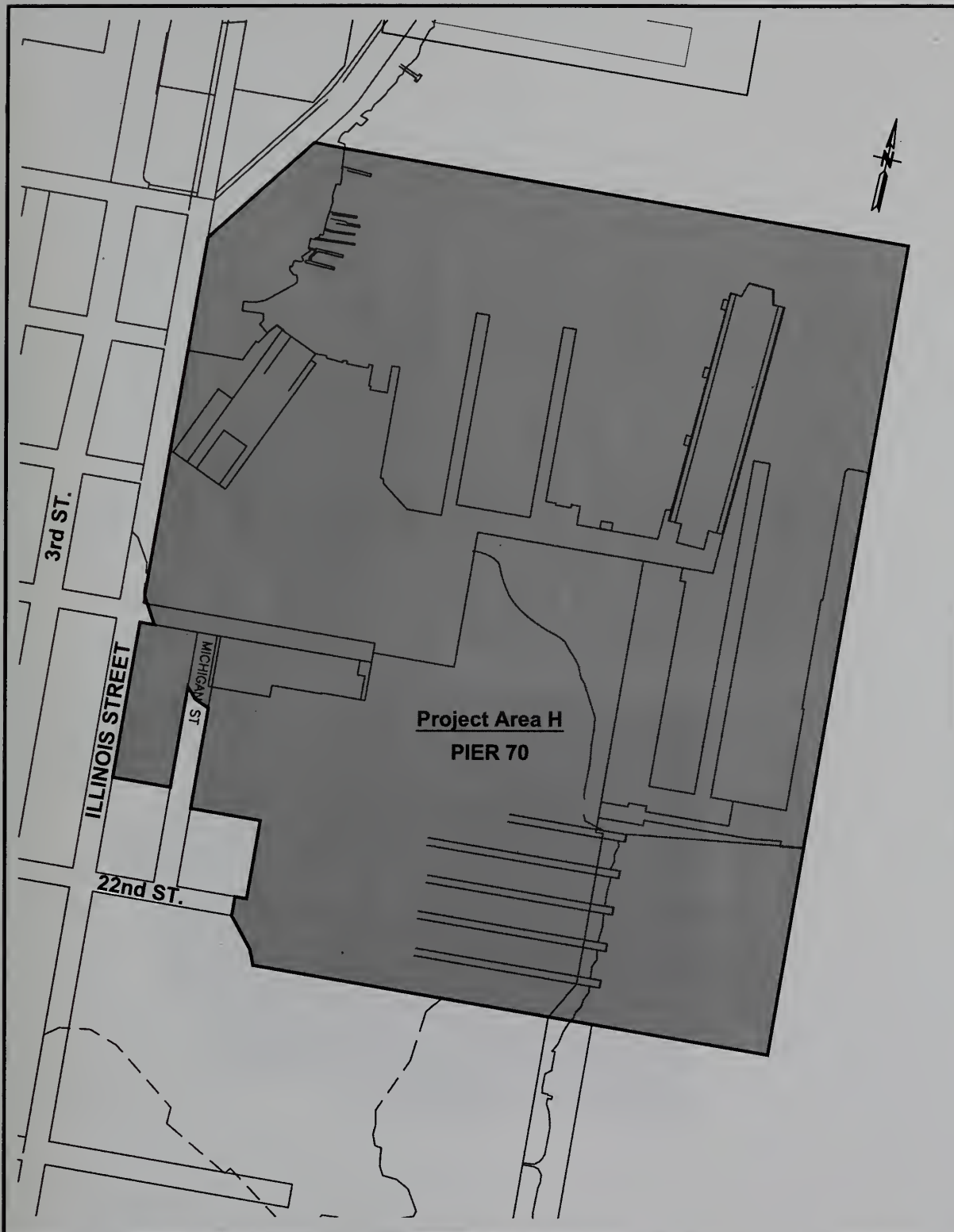


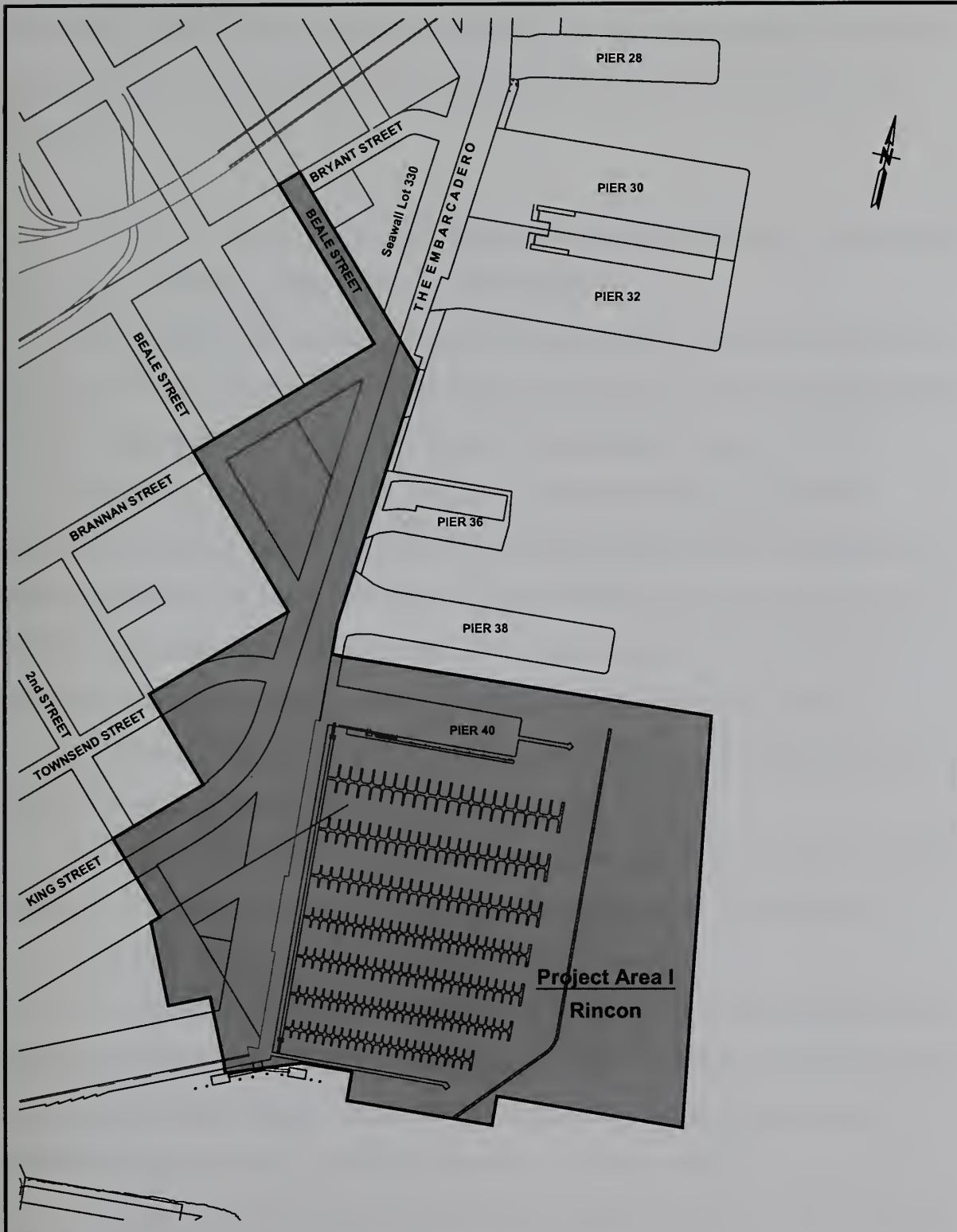












Attachment B

Resolution of Intention to Establish Infrastructure Financing District for City and County of San Francisco Infrastructure Financing District No. 2 (Port of San Francisco).

RESOLVED, By the Board of Supervisors (Board of Supervisors) of the City and County of San Francisco (City), State of California that:

WHEREAS, Under Government Code Sections 53395 et seq. (IFD Law), this Board of Supervisors is authorized to establish an infrastructure financing district and to act as the legislative body for an infrastructure financing district; and,

WHEREAS, More specifically, this Board of Supervisors is authorized to establish a "waterfront district" under Section 53395.8 of the IFD Law, including (i) a waterfront district for 65 acres of waterfront land in the area near Pier 70 (a "Pier 70 district") for which there is a "Pier 70 enhanced financing plan" and (ii) a waterfront district created as a "special waterfront district" under Section 53395.81; and,

WHEREAS, Pursuant to Section 53395.8 of the IFD Law, a waterfront district may be divided into project areas; and,

WHEREAS, This Board of Supervisors wishes to establish a waterfront district as described and for the purposes specified in this Resolution; now, therefore, be it

RESOLVED, By the Board of Supervisors as follows:

1. Authority. This Board of Supervisors proposes to conduct proceedings to establish an infrastructure financing district pursuant to the IFD Law, which district shall constitute a waterfront district. The waterfront district shall include project areas as identified by this Board of Supervisors from time to time, one of which is intended to constitute a Pier 70 district (at the time authorized by the IFD Law) and one or more of which may constitute special waterfront districts.

2. Name of IFD. The name proposed for the infrastructure financing district is "City and County of San Francisco Infrastructure Financing District (IFD) No. 2 (Port of San Francisco)". The names of the initial proposed project areas are:

- a. Project Area A (Seawall Lot 330). Project Area A shall be a special waterfront district.
- b. Project Area B (Piers 30-32). Project Area B shall be a special waterfront district.
- c. Project Area C (Pier 26). Project Area C shall be a special waterfront district.
- d. Project Area D (Pier 28). Project Area D shall be a special waterfront district.
- e. Project Area E (Seawall Lot 351). Project Area E shall be a waterfront district.
- f. Project Area F (Seawall Lot 337). Project Area F shall be a waterfront district.
- g. Project Area G (Pier 48). Project Area G shall be a waterfront district.
- h. Project Area H (Pier 70). Project Area H is expected to be a Pier 70 district. However, Pier 70 may not be subject to a Pier 70 enhanced financing plan prior to January 1, 2014.

i. Project Area I (Rincon Point-South Point Project Area). Unless the IFD Law is amended to permit venues within the Rincon Point-South Beach Project Area of the Redevelopment Agency of the City and County of San Francisco to be included in a special waterfront district, Project Area I shall not constitute a special waterfront district.

The City intends to establish additional project areas from time to time in compliance with the IFD Law.

3. Boundaries Described. The proposed boundaries of the IFD, including the boundaries of the initial project areas within the IFD, are as shown on the map of the

IFD on file with the Clerk of the Board of Supervisors, which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars.

4. Facilities. The type of public facilities proposed to be financed by the IFD and pursuant to the IFD Law shall consist of those listed as facilities on Exhibit A hereto and hereby incorporated in this Resolution (Facilities). The Board of Supervisors hereby authorizes the Executive Director of the Port of San Francisco and any designee of such official to execute one or more agreements to acquire Facilities financed by the IFD, which agreement(s) may provide for the acquisition of discrete portions or phases of facilities.

5. Incremental Property Tax Revenue. The Board of Supervisors hereby declares that, pursuant to the IFD Law, the City will use incremental property tax revenue from the City but none of the other affected taxing entities within the IFD (except to the extent permitted by Section 53395.8(h) of the IFD Law) to finance the Facilities.

6. Infrastructure Financing Plan. The Executive Director of the Port of San Francisco is hereby directed to prepare an infrastructure financing plan (Infrastructure Financing Plan) for this Board of Supervisors that complies with the requirements of the IFD Law. The Infrastructure Financing Plan shall be an enhanced financing plan, as defined in the IFD Law, with respect to Project Areas A, B, C and D. This Board of Supervisors reserves the right to establish enhanced financing plans in the future with respect to other project areas within the IFD.

To the extent required by the IFD Law, the Executive Director of the Port shall cause the Infrastructure Financing Plan to be sent to the San Francisco Planning Department and to this Board.

7. Public Hearing. This Board of Supervisors will conduct a public hearing on the proposed establishment of the IFD on [Day of the week], [Public Hearing Date] at

[Public Hearing Time] or as soon as possible thereafter, in the Board of Supervisors Chambers, 1 Dr. Carlton B. Goodlett Place, City Hall, San Francisco, California .

8. Notice of Public Hearing. The Clerk of the Board of Supervisors is hereby directed to cause notice of the public hearing to be published not less than once a week for four successive weeks in a newspaper designated by this Board of Supervisors for the publication of official notices in the City. The notice shall state that the IFD will be used to finance Facilities, briefly describe the Facilities and the proposed financial arrangements, including the proposed commitment of incremental tax revenue, describe the boundaries of the proposed IFD and state the day, hour, and place when and where any persons having any objections to the proposed Infrastructure Financing Plan, or the regularity of any of the prior proceedings, may appear before this Board of Supervisors and object to the adoption of the proposed Infrastructure Financing Plan by this Board.

9. Further Action. The Clerk of the Board of Supervisors and all other officers and agents of the City are hereby authorized and directed to take all actions necessary or advisable to give effect to the transactions contemplated by this Resolution.

10. No Obligation. This Resolution shall in no way obligate the Board of Supervisors to establish the IFD. The establishment of the IFD, including the project areas described above, shall be subject to the approval of this Board of Supervisors by ordinance following the holding of the public hearing referred to above.

11. California Environmental Quality Act. This Board of Supervisors hereby finds that, pursuant to Title 14, California Code of Regulations, Section 15378(b)(4)), adoption of this Resolution and the establishment of the IFD are not "projects" under the California Environmental Quality Act, because they do not involve any commitment to a specific project that may result in a potentially significant physical impact on the environment.

APPROVED AS TO FORM:

DENNIS J. HERRERA

City Attorney

By: _____

JOANNE SAKAI

Deputy City Attorney



MEMORANDUM

December 9, 2011

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Ann Lazarus, Vice President
Hon. Francis X. Crowley
Hon. Doreen Woo Ho
Hon. Leslie Katz

FROM: Monique Moyer
Executive Director *M. Moyer*

SUBJECT: Request approval of the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Tenant Relocation Plan San Francisco, California (Resolution Nos. 11-81 and 11-82)

DIRECTOR'S RECOMMENDATION: Approve Attached Resolutions

BACKGROUND

On December 31, 2010 San Francisco was selected by the America's Cup Event Authority to host the 34th America's Cup racing series in 2012 and 2013 under the terms set forth in the 34th America's Cup Host and Venue Agreement (the "HVA"). The HVA sets forth the rights and obligations of the City, including the Port, the San Francisco America's Cup Organizing Committee and the America's Cup Event Authority (the "Event Authority"). The 34th America's Cup proposes to use numerous Port venues, including Piers 26, 28, 27-29, 30-32, 19, 19½, 23, and Seawall 330 for the race events.

In the meantime, the Port Commission has been planning the development of the James R. Herman Cruise Terminal and Northeast Wharf Plaza to be located at Pier 27.

The convergence and overlap of these potential projects with respect to both time schedules and shared facilities has necessitated the need for the Port to plan for the relocation of up to 76 tenants that currently lease space within the greater footprint of both projects. The Port has worked with its consultant to produce a 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Tenant Relocation Plan (Draft Relocation Plan), which was published on November 14, 2011. The Draft Relocation Plan was included and analyzed in the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Final Environmental Impact Report, and is recommended for Port Commission approval, as a related implementation action associated with Port Commission approval of these two projects.

THIS PRINT COVERS CALENDAR ITEM NO. 10A

James R. Herman Cruise Terminal Project

The James R. Herman Cruise Terminal Project (the "Terminal Project") would require the relocation of tenants from Pier 27, the Pier 27 Administration Building, a portion of Pier 29, and in the future, the Historic Beltline Building. Due to the long term planning of the Terminal Project, many of these tenants are already in the process of voluntarily relocating or planning their moves.

The Project schedule assumes construction commencement targeted for approximately March 1, 2012. Demolition of the Pier 27 shed may commence as early as February 1, 2012.

34th America's Cup Project

The 34th America's Cup Project ("AC34") would require the relocation of tenants from Piers 26, 27, 28, 30-32, 19, 19½, 23, the remainder of 29 and Seawall Lot 330.

The tentative dates that AC34 expects to commence occupancy of various Port facilities is as follows:

March 1, 2012	Piers 30-32
June 1, 2012	Piers 26, 28, 29, 30-32, 19, 19½, 23
December 31, 2012	Seawall Lot 330

Port Outreach

In advance preparation for these potential projects, the Port has been in close communications with potentially affected tenants by providing on-going written information and arranging personal meetings with tenants to inform them as to the status of these projects. Since October 2010, the Port has delivered informational items to the tenants as well as posting information regarding these potential projects on the Port's website. In addition to this preliminary outreach to the tenants, the Port is also required by State of California statute to prepare a tenant relocation plan.

TENANT RELOCATION PLAN

Due to the potential displacement of a substantial number of tenants by the project, the California Relocation Assistance Law (California Government Code Section 7260 et seq. and the implementing guidelines in California Relocation Assistance and Real Property Acquisition Guidelines, Title 25, California Code of Regulations, Chapter 6, Section 6000 et seq.) requires the Port Commission to prepare and adopt a relocation plan, including a relocation assistance program, which must include reimbursement of certain relocation and associated costs. Overland, Pacific & Cutler, Inc., an experienced public real estate services firm, specializing in the planning and implementation of relocation processes, prepared a draft Relocation Plan ("the Draft Relocation Plan"), attached hereto, for the James R. Herman Cruise Terminal and Northeast Wharf Plaza and the 34th America's Cup projects as those projects are described in the EIR. The Draft Relocation Plan sets forth policies and procedures necessary to conform to statutes and regulations established by the California Relocation Assistance Law for displacement of businesses.

The basic purpose of the state-required relocation plan is to: (a) Describe the project, its schedule and financing plan; (b) Identify the anticipated impact that the project would

have on the occupants of property within the affected areas; (c) Identify the availability of potential replacement sites for impacted occupants; and (d) Explain the relocation assistance program. Upon adoption as recommended herein of the final relocation plan (the "Final Relocation Plan"), displaced tenants and Port staff will use it as a guide in seeking and providing the required benefits to relocating Port tenants.

As required, on November 14, 2011, the Port published the Draft Relocation Plan and notified potentially affected tenants that it was available for a 30-day public comment period. As of the date of this Memorandum, no comments have been received. If any comments are received prior to the Port Commission's adoption of the Final Relocation Plan anticipated to be December 16, 2011, Port staff will work to incorporate them into the Final Relocation Plan and let the Port Commission know of any substantive changes.

Relocation Benefits

The relocation assistance program, as described in the Draft Relocation Plan, assists displaced tenants in finding possible alternative locations and helps them determine what types of benefits are available through consultation, technical and advisory assistance. Port staff will lead the effort in securing these consultations, technical and advisory assistance for the tenants.

As detailed in the Draft Relocation Plan, eligible tenants may receive a relocation payment to cover the reasonable cost of moving their personal property from the Project site to the selected replacement site. At the tenant's option, the tenant can be eligible for either: (a) A payment for actual reasonable and necessary moving and related expenses, which may include transportation, labor, packing and unpacking, removal and re-installation of personal property and, in limited circumstances, capped re-establishment costs; or (b) A fixed payment of \$1,000 to \$20,000, which is based on a formula related to the average net earnings of the displaced business. Both options and the types and caps on reimbursement allowed are discussed in greater detail in the attached Draft Relocation Plan.

Process for Appeals

Eligible tenants must submit their claim for reimbursement with the necessary documentation within 18 months (of the date of the move) to the Port. As detailed in the Draft Relocation Plan, if a displaced tenant has a perceived grievance based on the Port's decision, the tenant can appeal to the City's Relocation Appeals Board - the established entity that hears grievances between a displacing agency (in this case, the Port) and the displaced tenant. As described in the Relocation Appeals Board's Guide (Attachment 4 of the Draft Relocation Plan), there is first an informal, then a formal appeal process.

Estimated Relocation Costs

The total relocation budget estimate for the Project (including the cruise terminal and America's Cup relocations) is \$1,800,000, exclusive of any relocation administration costs. A 20% contingency has been included in the estimate. This estimate is subject to increase or decrease based on the results of eligibility interviews.

CEQA

The tenant relocation requirements addressed in the Draft Relocation Plan, as well as the impacts of the tenant relocations, were included in the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Final Environmental Impact Report (Final EIR), which will be considered for certification by the San Francisco Planning Commission on December 15, 2011, pursuant to requirements of the California Environmental Quality Act (CEQA). Port Commission staff reports and approval resolutions have been prepared separately for each of these projects, and each includes a Port Resolution adopting CEQA Findings that describe the given project, and environmental impact information and conclusions contained in the Final EIR, including tenant relocation. The Port Commission's adoption of Resolution No. 11-75, CEQA Findings for James R. Herman Cruise Terminal and Northeast Wharf, and/or Resolution No. 11-79, CEQA Findings for the 34th America's Cup, thus includes findings that provide for Port Commission approval of the Relocation Plan.

RECOMMENDATION

Port staff recommends the Port Commission adopt the attached resolutions approving the Draft 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Tenant Relocation Plan San Francisco, California as the Port's Final Relocation Plan for these projects in Resolution No. 11-81 for the Pier 27 James R. Herman Cruise Terminal and Northeast Wharf Plaza and in Resolution No. 11-82 for the 34th America's Cup project involving use areas of Piers 26, 28, 30-32, 19, 19½, 23, 27-29 and Seawall Lot 330.

The Port greatly values its tenants and will endeavor to make every effort to minimize potential inconveniences that may occur during this transition. The Port has successfully relocated numerous tenants in the past for projects such as the Ferry Building, Giants Ballpark, Pier 1, Piers 1½ to 5 and the Exploratorium. These projects were all successful because of the Port's extensive outreach and continued communication with its tenants.

Prepared by: Mark Lozovoy, Assistant Deputy Director, Real Estate
For: Susan Reynolds, Deputy Director, Real Estate

Attachment: The 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Draft Relocation Plan San Francisco, California

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 11-81

- WHEREAS, Charter Section B3.581 grants to the Port Commission the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within the Port jurisdiction; and
- WHEREAS, The Port Commission has been planning the development of the James R. Herman Cruise Terminal and Northeast Wharf Plaza to be located at Pier 27, which would develop a modern new maritime facility to support San Francisco's growing cruise ship industry needs, and includes the integrated design and development of a major new public waterfront park, the Northeast Wharf Plaza along The Embarcadero waterfront; and
- WHEREAS, On June 9, 2009, the San Francisco Port Commission authorized Port staff by Resolution 09-33 to enter into a Memorandum of Understanding ("MOU") with the San Francisco Department of Public Works ("DPW") for the proposed Pier 27 James R. Herman Cruise Ship Terminal and Northeast Wharf Plaza Project ("the Project") for project management services; and
- WHEREAS, On December 14, 2010, the San Francisco Port Commission authorized Port staff by Resolution 10-80 to initiate schematic design on Scheme B2, an option that would create a new terminal building at Pier 27 that meets international cruise terminal standards; and
- WHEREAS, The project requires the Pier 27 site to be cleared for construction, requiring the potential displacement of existing tenant businesses that lease space in the facility; and
- WHEREAS, Under the California Relocation Assistance Law, this project requires the Port Commission to prepare and adopt a relocation plan; and
- WHEREAS, Overland, Pacific & Cutler, Inc., an experienced public real estate services firm, specializing in the planning and implementation of relocation processes, prepared a draft Relocation Plan for the Projects which describes the Projects, identifies the anticipated impact that the Projects would have on the occupants of Pier 27; identifies the availability of potential replacement sites for those occupants; and explains the Port's relocation assistance program; and
- WHEREAS, On November 14, 2011, the draft Relocation Plan was published for a 30-day public comment period and all comments have been incorporated into the final Relocation Plan; and
- WHEREAS, The Draft Relocation Plan was included in the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Final Environmental Impact Report, and was included as a related implementation action associated with each of the projects, for which the Port Commission approved CEQA Findings in Resolution 11-75,

which findings are incorporated in this Resolution by this reference, as though fully set forth herein; now, therefore, be it

RESOLVED, That the Port Commission approves the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Tenant Relocation Plan, San Francisco, California as the final Relocation Plan for the Project and authorizes the Executive Director or her designee to implement the Relocation Plan, including the relocation assistance program and take other such actions necessary to effectuate the purpose and intent of this Resolution.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of December 16, 2011.

Secretary

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 11-82

WHEREAS, Charter Section B3.581 grants to the Port Commission the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within the Port jurisdiction; and

WHEREAS, On December 31, 2010, the City of San Francisco was selected by the Golden Gate Yacht Club to host the 34th America's Cup Project international sailing events, pursuant to a Host and Venue Agreement (HVA) approved on December 14, 2010 by the San Francisco Board of Supervisors as the City's host city bid; and

WHEREAS, Under the HVA, the Project will use certain Port facilities including Piers 26, 28, 30-32, 19, 19½, 23 and 27-29 and Seawall Lot 330 to provide race team bases; America's Cup media, support and staging area; entertainment, commercial, public access and hospitality venues at an America's Cup Village, and numerous locations open to the public for shoreside spectator viewing of the race events; and

WHEREAS, Due to the potential displacement of a substantial number of tenants by the Project, the California Relocation Assistance Law requires the Port Commission to prepare and adopt a relocation plan; and

WHEREAS, Overland, Pacific & Cutler, Inc., an experienced public real estate services firm, specializing in the planning and implementation of relocation processes, prepared a draft Relocation Plan for the Project which describes the Project, identifies the anticipated impact that the Project would have on the occupants of Piers 26, 28, 30-32, 19, 19½, 23 and 27-29 and Seawall Lot 330; identifies the availability of potential replacement sites for those occupants; and explains the Port's relocation assistance program; and

WHEREAS, On November 14, 2011, the draft Relocation Plan was published for a 30-day public comment period and all comments have been incorporated into the final Relocation Plan; and

WHEREAS, The Draft Relocation Plan was included in the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Final Environmental Impact Report, and was included as a related implementation action associated with each of these two projects, for which the Port Commission approved CEQA Findings for the America's Cup project in Resolution 11-79; now, therefore, be it

RESOLVED, That the Port Commission approves the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Tenant Relocation Plan San Francisco, California as the final Relocation Plan for the Project and authorizes the Executive Director or her designee to implement the Relocation Plan, including the relocation assistance program and take other such actions necessary to effectuate the purpose and intent of this Resolution.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of December 16, 2011.

Secretary

**The 34th America's Cup and James R. Herman
Cruise Terminal and Northeast Wharf Plaza**

**DRAFT Relocation Plan
San Francisco, California**

PREPARED FOR



BY



**7901 OAKPORT STREET, SUITE 4800
OAKLAND, CA 94621
(510) 638-3081**

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INTRODUCTION

On December 31, 2010, San Francisco was selected to host the 34th America's Cup (AC34), a premier international sailing competition. The City and County of San Francisco, America's Cup Event Authority and America's Cup Race Management are preparing plans for the race events, which include completion of state and federal environmental review analyses and documents, and numerous regulatory permits and approvals. AC34 includes a series of race events in the summer of 2012 and summer 2013. Events include the America's Cup World Series, the Louis Vuitton Cup, and the 34th America's Cup. Race events in San Francisco (the City) are expected to commence in 2012 with the America's Cup World Series.

In order to provide the proper facilities for the events a series of temporary and permanent projects are planned to be constructed on San Francisco's waterfront. The paragraphs below provide details on the America's Cup, the Path to Selecting the City for AC34 that are driving the Project, Required Entitlements, Potential Displacements and the necessity for a Relocation Plan.

Origins of the America's Cup: The origins of the America's Cup dates to 1851 when a schooner named America, representing the New York Yacht Club (NYYC), passed the Royal Yacht to win the Royal Yacht Squadron's 100 Guinea Cup. Upon returning home with the cup, the America's ownership syndicate deeded the cup as a gift to the NYYC. With the namesake of the vessel that seized the cup from the British, the America's Cup was born, becoming a perpetual challenge cup among sailing nations of the world.

Path to Selecting The City: The BMW Oracle Racing team representing the Golden Gate Yacht Club (the Team), as the winners of AC33, won the right and had the duty to plan and organize the race in which they would defend the Cup. To do so the America's Cup Event Authority was formed to study three potential locations; two in Europe and San Francisco. The San Francisco America's Cup Organizing Committee (ACOC), an independent not-for-profit corporation was formed in 2010 to

marshal the private and corporate support necessary to win the campaign to host AC34 in San Francisco. On December 14, 2010, the San Francisco Board of Supervisors approved the Host and Venue City Agreement with the America's Cup Event Authority (subject to analyses under the California Environmental Quality Act (CEQA). On December 31, 2010, the Golden Gate Yacht Club and the America's Cup Event Authority announced AC34 would be held in the San Francisco Bay.

Required Entitlements: The granting of rights and development of facilities described in the Host and Venue Agreement is being analyzed in the Draft Environmental Impact Report (DEIR) for the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza pursuant to CEQA. The DEIR was released for public review and comment on July 11, 2011, and is targeted for completion at the end of 2011. The DEIR (Case # 2010.0493E) can be viewed at <http://www.sf-planning.org>.

Potential Displacement: In order to hold an event of AC34's magnitude, strategic use of property is required to deliver the land area needed for facilities for the event. This will result in the permanent displacement of several business tenants who utilize space under the control of the Port of San Francisco (the Port). As many as 76 commercial tenants may be impacted.

Relocation Plan: Due to the potential displacement of a substantial number of tenants by the Project, California Relocation Assistance Guidelines [California Government Code of Regulations (Title 25, Division 1, Chapter 6, Article 2, 6038)] requires the Port to prepare a formal Relocation Plan (the Plan).

This Plan outlines the requirements for moving and re-establishing the displaced tenants, the advisory services required to be provided and the types of financial assistance that will be offered.

RELOCATION PLAN

1. Statutory Requirements for the Plan

Due to the potential displacement of a substantial number of tenants by the Project, California Relocation Assistance Guidelines [California Government Code of Regulations (Title 25, Division 1, Chapter 6, Article 2, 6038)], generally referred to as the "Guidelines", requires the Port to prepare a relocation plan and submit it for approval to the local legislative body, in this case the Port Commission.

Overland, Pacific & Cutler, Inc. (OPC), an experienced public real estate services firm, specializing in the planning and implementation of relocation processes, prepared this Relocation Plan. The Port will provide all subsequently required relocation assistance for this Project.

This Relocation Plan sets forth policies and procedures necessary to conform to statutes and regulations established by the California Relocation Assistance Law (the Act), California Government Code Section 7260 et seq. (the CRAL) and the California Relocation Assistance and Real Property Acquisition Guidelines, Title 25, California Code of Regulations, Chapter 6, Section 6000 et seq. (the Guidelines) for commercial displacements.

The purpose of the Relocation Plan is to:

- (a) Describe the project, its schedule and financing plan;
- (b) Identify the anticipated impact that the project would have on the occupants of property within the Project Area;
- (c) Identify the availability of potential replacement sites for impacted occupants; and
- (d) Explain the Port's Relocation Assistance Program.

In accordance with 6038 of the Guidelines, a draft of this Relocation Plan will be made available for a 30-day review and comment period by the impacted parties and the public prior to submitting it to the Port Commission (the Commission) for approval.

The Draft Relocation Plan will be circulated for public review and comment on November 14, 2011. Comments and responses will be incorporated into the Final Relocation Plan prior to it being submitted to the Port Commission for its consideration and adoption. Comments to the plan must be in writing and should be either mailed or emailed no later than December 14, 2011 to:

Mark Lozovoy
Port of San Francisco
Pier 1
San Francisco, CA 94111
Mark.Lofovoy@sfport.com

The Proposed Project

The Board of Supervisors resolution called the San Francisco Bay a natural maritime amphitheatre. The City is also an international destination with a great capacity to host a broad spectrum of tourists for multiple events simultaneously. Amenities such as Crissy Field and Marina Green, as well as Port of San Francisco facilities make the City a natural spectator area and a logical area for facilities to support the race teams and events. These factors led to a venue plan which, if approved by the City, would utilize the Port properties addressed in this Relocation Plan, to support several of the AC34 program activities.

The Port facilities affected are Piers 19, 19 1/2, 23, 26, 27 Annex, 28, 30-32, Seawall Lot (SWL) 330, and 80. For the races held in 2013, Pier 27-29 would serve as the AC34 Village, a primary center for spectator viewing, entertainment and commercial activities, and the location of the start and finish line for the races. Pier 23 would house the AC34 media operations, including television broadcasting and studio space. Pier 19 would be used as administrative office and operations for AC Event

Authority and Race Management, and volunteer support facility. Piers 30-32 would serve as the location of the team bases, and public viewing areas. Piers 26 and 28 and SWL 330 would provide storage and support space for the teams including parking. Temporary floating docks to accommodate race team catamarans, race support vessels, and spectator yachts also would be installed at several of these piers. Pier 80 would support team bases as needed in 2012 and 2013, shared with the Port's cargo shipping terminal operations. More details regarding the proposed uses of these facilities are provided in the AC34/Pier 27 DEIR.

Images 1-3 below, sourced from the DEIR, show the general locations of the AC34 venues. The areas impacted, which will expected to result in relocation activity, are shown later in this plan.

Image 1: Project Location



SOURCE: Google Maps; ESA

Case No. 2010.0493E: AC34 / Cruise Terminal and Northeast Wharf Plaza (210317)

Figure 1-1
AC34 Venue Location Map and Sailing Race Area

Image 2: 2012 Proposed Uses

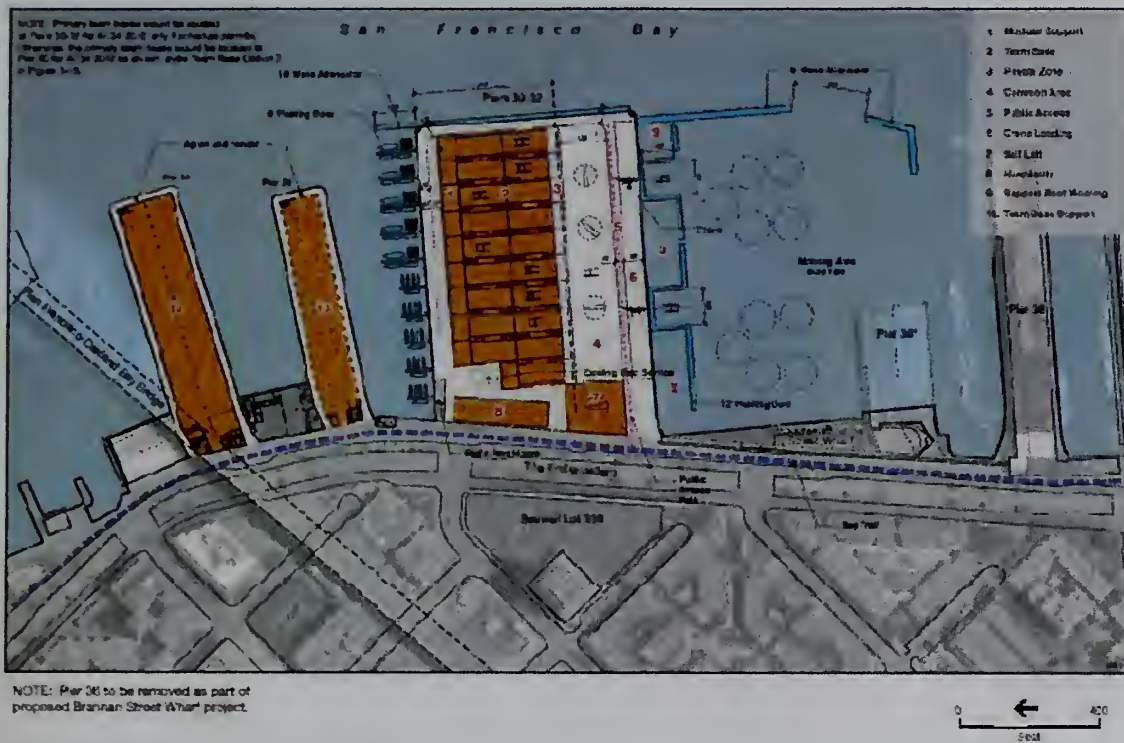
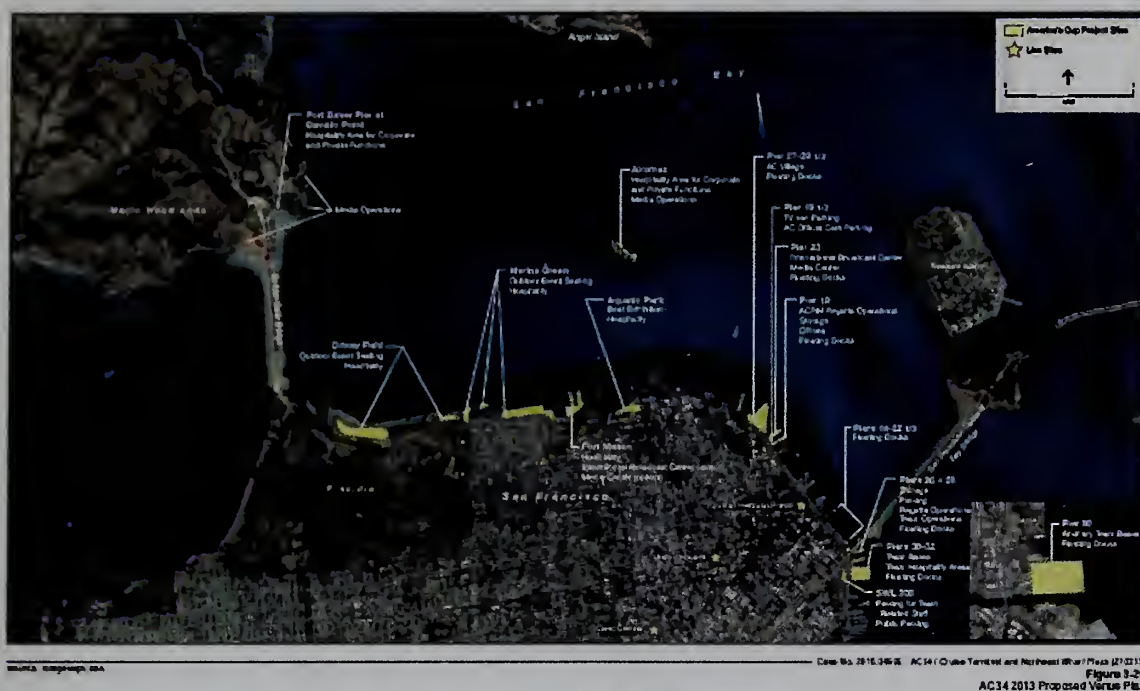


Image 3: 2013 Proposed Venue Plan



Proposed Project Funding

Funding for the capital improvements for the Project will primarily come from private sources. However, funds from the City of San Francisco and the Port of San Francisco will be used to assist in the development of capital improvements for the Project. Additional funds will come from the America's Cup Organizing Committee. No federal funds or redevelopment funds will be used in this project. Should such funds be used, this plan will require revisions to make provisions for relocation benefits under the Uniform Relocation Act (URA) and California Redevelopment Law.

4. Needs Assessment Methodology

To obtain information necessary for the preparation of this Draft Relocation Plan, visual inspections were conducted of the current occupant premises within the Project site as well as review of tenant leases and the Port's rent roll. For

implementation of the plan, interviews will be conducted with the displacees. This interview will make inquiries of the displacee including but not limited to the operations conducted at the displacement location by the displacee, terms of occupancy, current monthly lease/rental amounts, details related to the size of current operations, preferences for replacement locations and any special requirements the displacees may have to finalize their relocation plans.

5. Project Relocation Impacts

Areas: In order to develop the Project, some tenants will have to relocate their operations. Although the project covers several locations on the waterfront, the area of impact in regards to potential displacement is concentrated at Piers 19, 23, 26, 27, 27 ½, the Beltline Building, 28, 29, 30-32, and SWL 330. Images 4 and 5, sourced from the DEIR, display the venue programs for the areas impacts, which are expected to result in relocation activity.

Image 4: Proposed Venue Program Piers 26-32

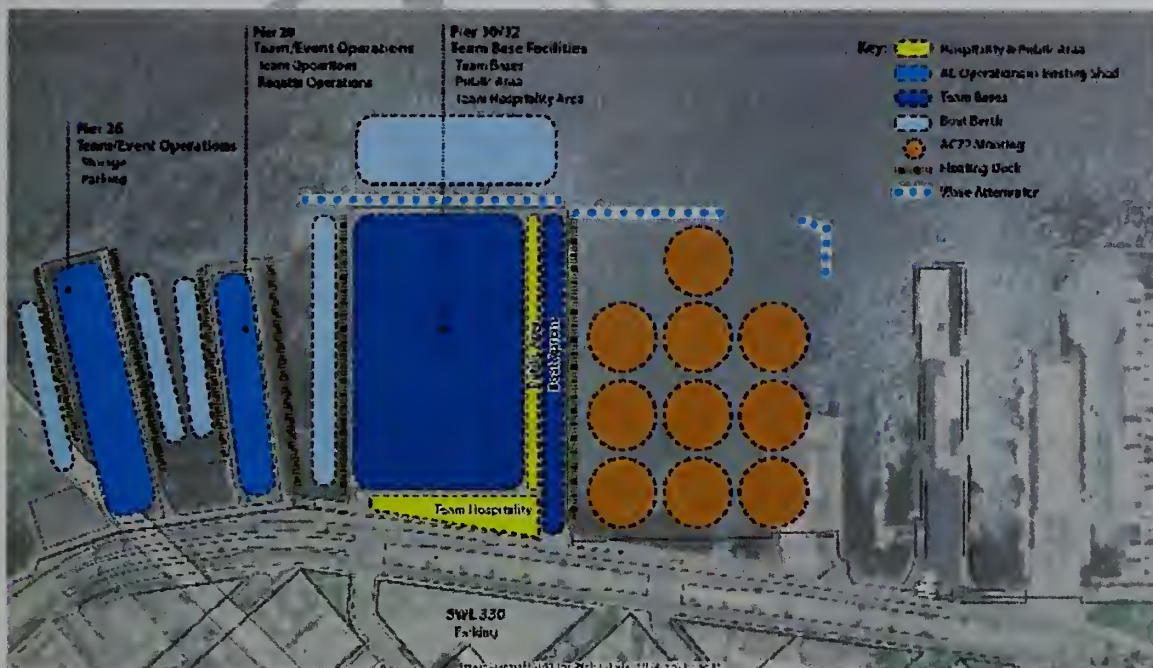
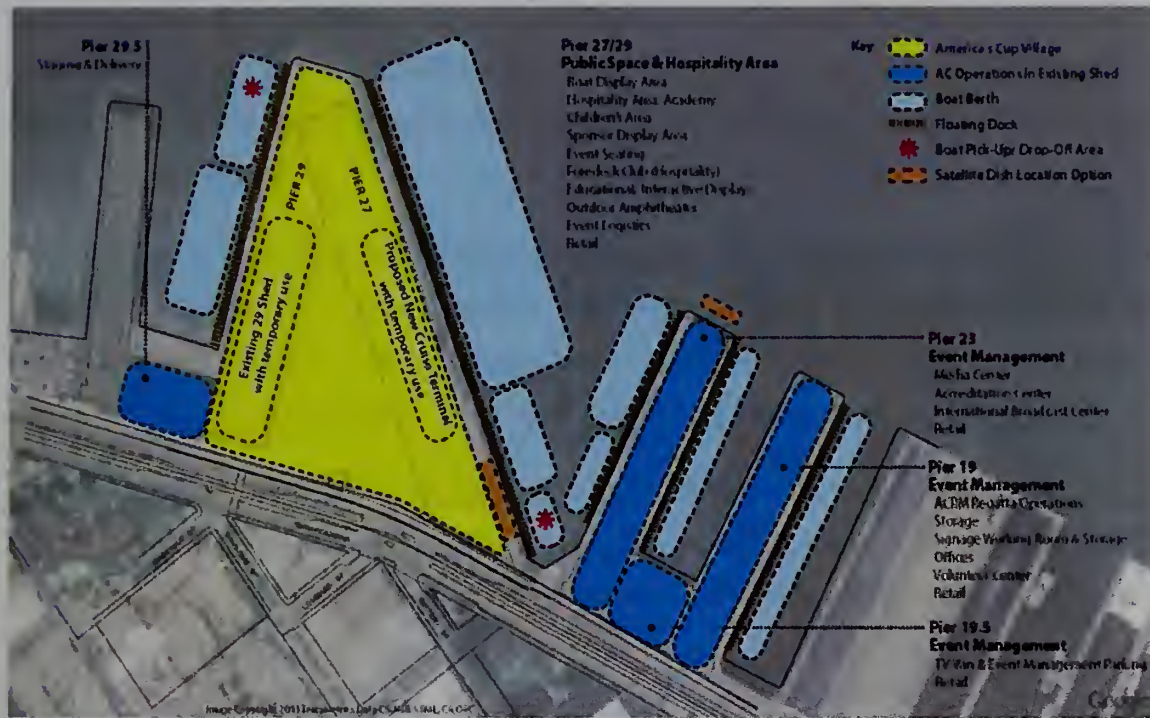


Image 5: Proposed Venue Program Piers 26-32



Impacted Commercial Tenants: There are as many as 76 commercial tenants that could be impacted. The DEIR estimates that 385 workers would be impacted by the relocations contemplated by the Project. It is expected that these tenants would be displaced prior to the 2012 race events consistent with the terms of their leases with the Port. A schedule of events both for the planning and development of this Project is included later in this plan in Section 15 (Projected Dates of Displacement and Project Timeline).

Based on data obtained from the Port, the types of current uses subject to displacement include storage for fish gear, tenants with a combination of office and storage facilities, and commercial entities that operate their business elsewhere but rent storage space from the Port.

Those tenants, which use multiple types of space, are assumed to require a complete relocation of their operations including the movement, disconnection and reconnection of furnishings, fixtures and equipment (FF&E). These tenants would potentially require the re-establishment of items including, but not limited to, printed materials, signage, telecommunications systems, and cabling for these systems at a replacement location.

Those tenants which only utilize storage space would only require the movement of personal property to a new location and would not be eligible to receive re-establishment benefits. It is not anticipated that parking operators will have FF&E and other personal property to move or need to re-establish their operations.

Impact Analysis: The Port is presently working with several unique tenants including Teatro Zinzanni Dinner Theatre, Bauer's California Coach Sales and San Francisco Soccer's Telegraph Field to plan their relocation and identify potential replacement sites. Chapters 3 and 5 of Volume 1 of the DEIR, provide some detail of the specific requirements for these tenants' relocation needs.

Teatro Zinzinni is the only tenant with a food service operation to be displaced. Several food and beverage tenants rent storage space from the Port including three restaurants and two wine shops. The wine shops require a liquor license to store their wine stock. These tenants may be able to move their stored goods to other Port storage facilities.

Fishing gear storage users may be able to move to other Port properties/facilities. Such accommodations would support the Port's maritime preservation mission and help the fishing operators stay near their natural production facilities. One business with the unique need of requiring dock space may also be able to be relocated to other Port space.

One consideration for tenants is that they are paying rents that may be below market. This will create some challenges for their relocation. However, relocation benefits received by the eligible tenant, could assist in off-setting potential rent

increases. All tenants will receive advisory services that may include assistance from Port staff, referrals to real estate brokers and assistance from outside relocation agents to locate space with rental rates that are at a level which would be sustainable for the individual business operation.

An analysis of the median monthly rents paid by the impacted tenants is shown below in Table 1,

Table 1: Existing Rents

Type of Use	Monthly Rent \$/Sf
Fish Gear Storage	\$0.20
Mixed Use	\$0.59
Offices	\$1.39
Parking	\$1.00
Recreation	\$0.21
Food and Beverage Storage	\$0.78
Storage Areas	\$0.77
Wireless Facilities	\$59.0

Tables 2 and 3 below describe the aggregate potential relocation impacts in terms of the number of tenants to be displaced, total uses by space and total business and personal property relocations.

Table 2: Impact Snapshot

Number of Tenants Impacted	76
Number of Potential Relocations	32
Number of Personal Property Moves	44

Table 3: Relocation Impacts by Use Type

Type of Use	Total Spaces	Square Feet Impacted
Fish Gear Storage	11	23,081
Mixed Use	3	21,524
Offices	23	25,807
Parking	11	111,808
Recreation	1	21,230
Storage Areas	56	225,660
Wireless Facilities	4	63
Total	109	429,173

The exact number of tenants eligible for relocation assistance has not been determined. Under the provisions of the Port's standard lease agreements, lessees are not eligible for relocation assistance and their leases may be terminated with a minimum of a 30 day notice. Eligibility interviews will be required to determine the benefits available to displacees. The Port will provide, as a minimum, advisory services to all displacees.

6. Replacement Resources

While there is no specific requirement under CRAL mandating that alternate (replacement) relocation sites be made available to tenants at the time of displacement, the Port is committed to making every effort to satisfactorily relocate tenants displaced by the Project.

The Port by itself cannot provide all of the necessary space needed to relocate the displacees and private market resources will be needed.

Several options will be made available to displaced tenants including relocating to other space owned by the Port, spaces owned by other public agencies in the City and replacement spaces owned and operated by private parties.

The selection of replacement space will be the choosing of the displacee. Any referral to a replacement space is purely advisory and the displacee does not have to elect to move to any referred location.

Comparable Warehouse Space: Based on the information provided in Table 3 above, the greatest impact in terms of total square footage is to warehouse storage. The range of impacted spaces is from 45 square feet (a materials testing business) to 36,371 square feet (a transportation business). For the users of warehouse storage space (the most comparable type of facility to that at the Port's various piers) a survey of warehouse space was conducted. The findings are shown in Table 4 below. Port space was not included in this survey.

Comparable Office Properties: A survey on available office space, matching the characteristics of the displacement spaces in terms of square feet and class of space was conducted. The results are shown in Table 4 below. Port space was not included in this survey.

Table 4: Aggregate Statistics for Available Space in San Francisco

Type of Space	SF Available	Rent/Sf Per Month
Warehouse	771,420	\$0.78
Office	298,899	\$2.50

Source: Loopnet, as of September 6, 2011

Port Owned Property:

The Port presently has a significant amount of square feet available in its inventory. Tables 5 and 6 below show the rates by space type as well as the amount of square footage available.

Table 5: Port Vacancy by Space Type

Type	Sq Ft
Office	40,792
Office Storage	1,337
Shed	158,988
Total Vacant	201,117

Table 6: Port Lease Rates

Type of Space	Space Class	Lease Type	Rent Range Per SF
Office	B	Full-Service Gross	\$2.25 - \$2.75
Office	C	Full-Service Gross	\$1.5 - \$2.55
Office	B	Net	\$2.25 - \$3.00
Office	C	Net	\$1.00 - \$2.25
Office Storage	All	Not Applicable	\$1.00
Industrial Shed	Not Applicable	Industrial Gross	\$0.55 - \$1.25
Land	Unpaved	Industrial Gross	\$0.20 - \$0.25
Land	Paved	Industrial Gross	\$0.22 - \$0.25
Land	Improved	Industrial Gross	\$0.25 - \$0.30
Land	Submerged	Industrial Gross	\$0.22 - \$0.25
Fishing	Storage	Licenses	\$0.22

7. Concurrent Displacement

There are several major projects including the Central Subway Project, the development of the Transbay Terminal and the Redevelopment of the Hunters Point Shipyard in the planning stages and/or under construction in the City.

The key impact related to these projects a relocation plan needs to consider are the impact (depletion) on the availability of potential replacement spaces, specifically in this case, commercial and industrial spaces.

Based on the research of those projects and their relocation impacts, they do not impact upon the ability to relocate displacees of the AC34 Project. Either the required displacements have occurred or the location and space type requirements are different than those of the AC34 displacements.

8. Temporary Relocation

The displacements considered in this Plan are all permanent. There is no anticipated need, or requirement for temporary relocation. Should such a need arise, the Port will respond appropriately, in conformance with all applicable laws and requirements.

9. Program Assurances and Standards

Relocation assistance services will be provided to ensure that displacement does not result in arbitrary or unlawful discrimination or different or separate treatment of occupants based on race, color, religion, national origin, sex, marital status, familial status, disability or any other basis protected by the applicable provisions of the Americans with Disabilities Act, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, the California Fair Employment & Housing Act, and the Unruh Act. Tenants will not be permanently displaced without a minimum of a ninety (90) days advance written notice.

10. Relocation Assistance Program

Port staff is available to assist the displacees with questions about relocation and/or assistance in relocating. Mark Lozovoy, the Port's relocation advisor, may be contacted for relocation matters between **8:00 a.m. and 5:00 p.m.**, Monday through Friday at (415) 274-0400.

A comprehensive relocation assistance program, with technical and advisory assistance, will be provided to the tenants being displaced. Specific activities will include:

1. Distribution of informational statements. **ATTACHMENT 2** contains a sample of the informational notice that will be given to the displaced occupant.
2. Timely referrals to commercial and storage spaces.
3. Assistance with completion and filing of relocation claims and appeals forms, if necessary.

11. Relocation Benefit Categories

Benefits will be provided in accordance with the CRAL, the Guidelines, and all other applicable regulations and requirements. Benefits will be paid upon submission of required claim forms and documentation in accordance with approved procedures. The Port will provide appropriate benefits for the displacees as required by the above laws and requirements.

Specific eligibility requirements and benefit plans will be detailed on an individual basis with all displacees. In the course of personal interviews and follow-up visits, the displacee will be counseled as to available options and the consequences of any choice with respect to financial assistance.

Commercial Moving Expense Payments

Relocation benefits will be provided to the commercial occupant pursuant to State law. Benefits will be paid upon submission of required claim forms and documentation in accordance with the procedures outlined in **ATTACHMENT 3**.

Pursuant to California Relocation Law, eligible tenants may receive a relocation payment to cover the reasonable cost of moving their personal property from the Project site to the selected replacement site.

There are two options:

(A) A payment for actual reasonable and necessary moving and related expenses;

Or,

(B) A fixed payment not to exceed twenty thousand dollars (\$20,000).

Payment for Actual Reasonable and Necessary Moving and Related Expenses

This payment may include the following:

- a) Transportation of persons and property from the present location to the replacement location (transportation costs are limited to a distance of 50 miles);
- b) Packing, crating, uncrating, and unpacking personal property;
- c) Disconnecting, dismantling, removing, reassembling, and installing relocated and substitute machinery, equipment and other personal property. This includes connection to utilities available nearby, and modifications necessary to adapt such property to the replacement structure, or to the utilities, or to adapt the utilities to the personal property;

- d) Storage of personal property generally for up to twelve (12) months, at the Port's discretion;
- e) Insurance of personal property while in storage or transit and, the replacement value of property lost, stolen, or damaged (though not through the fault or negligence of the displaced person) in the process of moving;
- f) Subject to certain limitations, any license, permit or certification required by the displaced business, to the extent that the cost is necessary for reestablishment at the replacement location;
- g) Subject to certain limitations, reasonable and pre-authorized professional services, including architects', attorneys', engineers' fees and consultants' charges, necessary for: (1) planning the move of the personal property; (2) moving the personal property; or, (3) installing the relocated personal property at the replacement location;
- h) Subject to certain limitations, the purchase and installation of substitute personal property limited to the lesser of: (1) the estimated cost to move the item to the replacement location; or, (2) the replacement cost, less any proceeds from its sale;
- i) Subject to certain limitations, modifying the machinery, equipment or other personal property to adapt it to the replacement location or to utilities available at the replacement location or modifying the power supply.
- j) Actual direct losses of tangible personal property resulting from moving, or discontinuing a business or non-profit organization, *not-to-exceed the lesser of:*

- i) The fair market value of the tangible, personal property for continued use at its location prior to displacement; **or**,
- ii) An amount equal to the reasonable expenses that would have been required to relocate the property, as determined by the Port, subject to certain limitations;
- k) Actual, and reasonable expenses incurred in searching for a replacement business location, *not-to-exceed* \$1,000.
- l) Actual, and reasonable expenses necessary to reestablish a displaced small business at its new location, *not-to-exceed* \$10,000. Examples of expenses that may be considered for reimbursement include advertising, redecoration and certain increased costs of operation at the new location.

Fixed Payment In Lieu of a Payment for Actual Reasonable Moving and Related Expenses

The amount of this payment shall be based on the *average, annual net* earnings of the business. The payment to an eligible business may neither be less than \$1,000, nor more than \$20,000. To qualify for this payment a displaced business:

- A) *Cannot* be a part of a commercial enterprise having *at least* three (3) other establishments which are *not* being displaced by the Port as part of this Project, and which is under the *same ownership* and engaged in the *same, or similar* business activities;
- B) Must *not* be able to relocate without substantial loss of patronage; and,

- C) *Must have contributed at least 33% of the owner's total gross income during each of the two (2) taxable years prior to displacement, or meet specific earnings criteria.*

12. Payment of Relocation Benefits

Relocation benefit payments will be made expeditiously. Claims and supporting documentation for relocation benefits must be filed with the Port within eighteen (18) months from the date the claimant moves from the displacement property. Procedures for preparing and filing of claims and processing and delivering of payments are included in this Plan as **ATTACHMENT 3**.

13. Eviction Policy

The Port recognizes that eviction is permissible only as a last resort and that relocation records must be documented to reflect the specific circumstances surrounding any eviction. Eviction will only take place in cases of nonpayment of rent or serious violation of the rental agreement, or if the displacees refuse all reasonable offers to move. Eviction will not affect the eligibility of a person legally entitled to relocation benefits.

14. Appeals Policy

The appeals policy will follow the standards described in Section 6150 et seq. of the Guidelines. Briefly stated, the displaced business will have the right to ask for review when there is a perceived grievance regarding any of their rights to relocation and relocation assistance, such as a determination as to eligibility, the amount of payment, or the failure to provide a comparable replacement referral.

The City and County of San Francisco has a Relocation Appeals Board established Pursuant to Cal Health and Safety Code §33412.5, which hears grievances between the Displacing Agency (the Port) and the Displacee. ATTACHMENT 4 provides a

guide to their process and directions for filing an appeal after benefits have been denied in whole or in part by the Displacing Agency.

15. Projected Dates of Displacement and Project Timeline

Unless prior arrangements are made, the displacees will receive a minimum of a 'Ninety (90)-Day-Notice-to-Vacate' before they are required to move. The Port will work with the displaced business to begin planning the move in advance of the date the Port requires the site to be cleared.

Prior to the Port being able to mandate displacements the relocation plan must be adopted by the Port Commission.

16. Estimated Relocation Cost

The relocation budget estimate for this Project is \$1,800,000, exclusive of any relocation administration costs. A 20% contingency has been included in the estimate. This estimate is subject to increase or decrease based on the results of eligibility interviews.

TABLE OF ATTACHMENTS

- ATTACHMENT 1:** Informational Statement – Tenants, Farms and, Non-profit Corporations
- ATTACHMENT 2:** Relocation Payment Policy and Procedures for Relocation Payments and Assistance
- ATTACHMENT 3:** San Francisco Relocation Appeals Board Guidelines

ATTACHMENT 1:

**SAMPLE OF INFORMATIONAL STATEMENT FOR BUSINESS
AND NON-PROFIT OPERATIONS**

DRAFT

SAMPLE OF INFORMATIONAL STATEMENT FOR BUSINESS AND NON-PROFIT OPERATIONS

Introduction

The property on which you now conduct your business is in an area to be improved with the assistance of 'The Port of San Francisco ("Port") for the 34th America's Cup. The Port plans require the relocation of the existing commercial use including office, storage, parking, or other use. You will be notified in a timely manner as to the date by which you must move.

Please read this information as it will be helpful to you in determining your eligibility for and the amount of your relocation benefits under the federal and/or state law. We suggest you save this Informational Statement for reference.

This is **not** a notice to move. It is important that you do **not** move *before* you learn what you must do to receive relocation payments and other assistance to which you may be entitled.

The Port will provide relocation assistance to you. The Port is available to explain the program and benefits. Their address and telephone number is:



Pier 1
San Francisco, CA 94111
(415) 274 - 0400

Summary of Relocation Assistance

As an eligible displaced person, you will be offered appropriate financial and advisory assistance to help you relocate, including:

- A. Payment for your moving expenses. You will receive either:
- A Payment for Actual Reasonable Moving and Related Expenses; **or**,
 - A Fixed Payment In Lieu of a Payment for Actual Moving and Related Expenses
- B. Referrals to suitable replacement locations.
- C. Other help to re-establish your business and minimize the impact of the move including help in preparing claim forms to request relocation payments.

If you disagree with the Port' decision as to your right to a relocation payment, or the amount of the payment, you may appeal that decision.

SOME GENERAL QUESTIONS

How will I know I am eligible for relocation assistance?

Per Section 6150 et seq. of the Guidelines, when an agreement has been reached between a private party a public entity for the purposes of developing property and a private party will be displaced, eligibility begins on the date of that agreement. Therefore, you should *not* move before that date. If you do, you may not be eligible for relocation assistance.

How Will the Port Know How Much Help I Need?

You will be contacted at an early date and personally interviewed by a representative of the Port to determine your needs and preferences for a replacement location and

other services. The interviewer will ask questions about such matters as your space requirements. It is to your advantage to provide the information so that the Port, through its relocation consultant, can assist you in moving with a minimum of hardship. The information you give will be kept in confidence.

How Soon Will I Have to Move?

Every reasonable effort will be made to provide you with sufficient time to find and reestablish your business in a suitable replacement location. If possible, a mutually agreeable date for the move will be worked out. Unless there is an urgent need for the property (e.g., your occupancy would present a health or safety emergency), you will not be required to move without at *least* Ninety (90) days advance written notice. It is important, however, that you keep in close contact with the Port so that you are aware of the time schedule for carrying out the project and the approximate date by which you will have to move.

How Will I Find A Replacement Location?

The Port will provide you with current and continuing information on available replacement locations that meet your needs.

The Port may also provide you with the names of real estate agents and brokers who can assist you in finding the type of replacement location you require. While the Port will assist you in obtaining a suitable replacement location, you should take an active role in finding and relocating to a location of your choice. No one knows your needs better than you. You will want a facility that provides sufficient space for your planned activities. You will also want to ensure that there are no zoning, or other requirements which will unduly restrict your planned operations. Ask the Port to explain which kind of moving costs are eligible for repayment and which are not eligible. That will enable you to carry out your move in the most advantageous manner.

What Other Assistance will be Available to Help Me?

In addition to help in finding a suitable replacement location, other assistance, as necessary, will be provided by the Port. This includes information on Federal, State, and local programs that may be of help in reestablishing a business. For example, the Small Business Administration (SBA) provides managerial and technical assistance to some tenants. There may also be a government grant or loan program which can help you reestablish your business. The Port will assist you in applying for help available from government agencies. The range of services depends on the needs of the business being displaced. You should ask the Port's representative to tell you about the specific services that will be available to you.

I Have A Replacement Location And Want To Move. What Should I Do?

Before you make any arrangements to move, notify the Port, in writing, of your intention to move. This should be done *at least* thirty (30) days *prior to* the date you begin your move. The Port will discuss the move with you and advise you of the relocation payment(s) for which you may be eligible; the requirements to be met; and, how to obtain a payment.

I Plan To Discontinue My Business Rather Than Move. What Should I Do?

If you have decided to discontinue your business rather than re-establish, you may still be eligible to receive a payment. Contact the Port and discuss your decision to discontinue your business. You will be informed of the payment, if any, for which you may be eligible, the requirements to be met, and how to obtain your payment.

What Kinds of Payments For Moving Expenses Will I Receive?

Every business is entitled to a relocation payment to cover the reasonable cost of moving. You may choose either:

- A. A Payment for Actual Reasonable Moving and Related Expenses; or,**
- B. A Fixed Payment In Lieu of Moving and Related Expenses** (if you meet the eligibility requirements).

What is Payment for Actual Reasonable Moving and Related Expenses?

If you choose a 'Payment for Actual Reasonable Moving and Related Expenses', you may claim the cost of:

- A.** Transportation of personal property from your present location to the replacement location. (Generally, transportation costs are limited to a distance of 50 miles. If you plan to move beyond 50 miles, discuss your planned move with the Port.).
- B.** Packing, crating, uncrating, and unpacking personal property.
- C.** Disconnecting, dismantling, removing, reassembling, and installing relocated and substitute machinery, equipment and other personal property. This includes connection to utilities available nearby and modifications necessary to adapt such property to the replacement structure or to the utilities or to adapt the utilities to the personal property. This also includes alterations to the replacement structure required to reinstall machinery, equipment or other personal property
- D.** Storage of personal property for a reasonable period of time, if required, at the Port' discretion.

- E. Insurance of personal property in connection with the move and required storage and the replacement value of property lost, stolen, or damaged in the process of moving where insurance is not readily available.
- F. Any license, permit or certification required by the displaced business, to the extent that the cost is (1) necessary to its re-establishment at the replacement location; and, (2) does *not* exceed the cost for the remaining useful life of the existing license, permit, or certification.
- G. Reasonable and pre-authorized professional services, including architects, attorneys, and engineers fees, and consultants charges, necessary for: (1) planning the move of the personal property; (2) moving the personal property; or, (3) installing the relocated personal property at the replacement location.
- H. Re-lettering signs, printing replacement stationery made obsolete by the move and customer notifications.
- I. The reasonable cost incurred in attempting to *sell* an item that is not relocated.
- J. Actual direct loss of personal property. This payment provides compensation for property that is *neither* moved *nor* promptly replaced with a "substitute item" at the replacement location. Payment is limited to the lesser of: (1) the estimated cost of moving the property; *or*, (2) the fair market value of the property for its continued use at the old location, *less* any proceeds from its sale. To be eligible, you must make a good faith effort to sell the property, unless the Port determines that such effort is not necessary.
- K. Purchase and installation of substitute personal property. Payment will be limited to the lesser of: (1) the estimated cost to move the item to the replacement location; *or*, (2) the actual cost of the substitute item delivered and installed at the replacement

location, less any proceeds from its sale or its trade-in value. It is important to discuss your plans with the Port before you proceed.

L. Searching for a replacement location. This payment may *not* exceed \$1,000.00 and may cover costs for:

- Transportation expenses
- Time spent searching for a replacement location, based on a reasonable salary or earnings
- Reasonable fees paid to real estate agents or brokers to find a replacement location (not fees related to the purchase of a site)
- Meals and lodging away from home

The Port's representative will explain all eligible moving costs, as well as, those which are not eligible. You must be able to account for all costs that you incur; so keep all your receipts. The Port will inform you of the documentation needed to support your claim.

You may minimize the amount of documentation needed to support your claim, if you elect to "self-move" your property. Payment for a self-move is based on the amount of an acceptable low bid or estimate obtained by the Port. If you self-move, you may move your personal property using your own employees and equipment or a commercial mover. If you and the Port cannot agree on an acceptable amount to cover the cost of the "self-move," you will have to submit full documentation in support of your claim.

You may elect to pay your moving costs yourself and be reimbursed by the Port or, if you prefer, you may have the Port pay the mover directly. In either case, let the Port know before you move. Select your mover with care. The Partner's representative can help you select a reliable and reputable mover.

When a payment for "actual direct loss of personal property" or "substitute personal property" is made for an item, the estimated cost of moving the item may be based on the *lowest* acceptable bid or estimate obtained by the Port. If not sold or traded-in, the item must remain at the old location and ownership of the item must be transferred to the Port before you may receive the payment.

What are Re-establishment Expenses?

A small business, farm or, non-profit organization may be eligible to receive a payment of up to \$10,000 for expenses actually incurred in relocating and re-establishing such operation at a replacement site.

Eligible expenses must be reasonable and necessary, as determined by the Port. They may include but are not limited to the following:

- A. Repairs or improvements to the replacement real property as required by federal, state or local law, code or ordinance.
- B. Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.
- C. Construction and Installation costs for exterior signage to advertise the business.
- D. Provision of utilities from right-of-way to improvements on the replacement site.
- E. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling or carpeting.
- F. Licenses, fees, and permits where not paid as part of moving expenses.
- G. Feasibility surveys, soil testing and marketing studies.

- H. Advertising of replacement location.
- I. Professional services in connection with the purchase or lease of a replacement site.
- J. Estimated increased costs of operation during the first two (2) years at the replacement site, for such items as:
 - 1. Lease or rental charges
 - 2. Personal or real property taxes
 - 3. Insurance premiums, and
 - 4. Utility charges (*excluding* Impact fees)
- K. Impact fees or one-time assessments for anticipated heavy utility usage.
- L. Other items that the Port considers essential to the reestablishment of the business.

What Expenses Are Not eligible for Reestablishment Payment?

The following is a *non-exclusive* listing of re-establishment expenditures not considered to be reasonable, necessary or otherwise eligible:

- A. Purchase of capital assets, such as, office furniture, filing cabinets, and machinery or trade fixtures.
- B. Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.
- C. Interior or exterior refurbishment at the replacement site, except as otherwise provided for under the business reestablishment payment.

- D. Interest costs associated with any relocation expense or the purchase of replacement property.
- E. Payment to a part-time business in the home which does not contribute materially to the household income.

What is Fixed Payment In Lieu Of A Payment for Actual Reasonable Moving and Related Expenses?

A 'Fixed Payment In Lieu of a Payment for Actual Reasonable Moving and Related Expenses' to a business or farm operation is based on the *average annual net earnings* of the business or farm operation. The payment to an eligible business or farm operation may neither be *less* than \$1,000.00, *nor more* than \$20,000.00.

A nonprofit organization may be eligible for a payment from \$1,000.00 to \$20,000.00, subject to the following:

A displaced non-profit organization may choose a fixed payment as stated above if the Port determines that it (the non-profit organization) cannot be relocated without a substantial loss of existing patronage (membership or clientele.) A nonprofit organization is assumed to meet this test, unless the Port demonstrates otherwise. Any payment in excess of \$1,000.00 must be supported with financial statements for the *two* 12 month periods *prior to* displacement. The amount to be used for the payment is the *average of the last two (2) years annual net earnings*. Documentation required may be income tax returns, certified financial statements and accounting records or other similar evidence acceptable to the Port.

To qualify for an In-Lieu payment:

A. A displaced *business*:

1. Must own or rent personal property which must be moved in connection with the displacement and for which an expense would be incurred in such move, and the business vacates or relocates from its displacement site;
2. Must be unable to relocate without a substantial loss of existing patronage;
3. Must *not* be part of a commercial enterprise having more than one other entity which is not being acquired by the Port, and which is under the same ownership and engaged in the same or similar business activities;
4. Must *not* be operated at a displacement dwelling/site solely for the purpose of renting such dwelling/site to others; and,
5. Must have contributed materially to the income of the displaced person during the two (2) taxable years prior to displacement.

B. A displaced *nonprofit organization* (1) must be unable to relocate without a substantial loss of its existing patronage; and, (2) must not be part of an enterprise having another establishment.

The Port will inform you as to your eligibility for this payment and the documentation you must submit to support your claim. **Remember, when you elect to take this payment you are not entitled to reimbursement for any other moving expenses.**

How do I File a Claim for a Relocation Payment?

You must file a claim for a relocation payment. The Port will provide you with the required claim forms; assist you in completing them; and, explain the type of documentation that you must submit in order to receive your relocation payments. If you must pay any relocation expenses before you move (e.g., because you must provide a security deposit if you lease your new location), discuss your financial needs with the Port. You may be able to obtain an advance payment. An advance payment may be placed in "escrow" to ensure that the move will be completed on a timely basis.

If you are a tenant, you must file your claim within 18 months after the date you move. If you own the property, you must file within eighteen (18) months after the date you move, or the date you receive the final acquisition payment, whichever is later. However, it is to your advantage to file as soon as possible after you move. The sooner you submit your claim, the sooner it can be processed and paid. If you are unable to file your claim within 18 months, the Port may extend this period.

You will be paid promptly after you file an acceptable claim. If there is any question regarding your right to a relocation payment or the amount of the payment, you will be notified, in writing, of the problem and the action you may take to resolve the matter.

Appeals

If you disagree with the Port's decision as to your right to a relocation payment or the amount of payment, you may appeal the Port's decision to the San Francisco Relocation Appeals Board. At a minimum, you will have eighteen (18) months from the date you move from the property or you receive final compensation for relocation assistance, whichever is later, to file your appeal. If you assistance the San Francisco Relocation Appeals Board will assist you in preparing your appeal. If you are not satisfied with the final appeal decision, you may seek review of the matter by the courts.

Tax Status of Relocation Benefits

Relocation benefit payments are generally not considered as income for the purpose of the Internal Revenue Code of 1986 or the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax law, Part 11(commencing with Section 23001) of Division 2 of the Revenue and Taxation Code. The preceding statement is not, however, tendered as legal advice in regard to tax consequences, and displacees should consult with their own independent tax advisor or legal counsel to determine the current status of such payments.

Additional Information

If you have further questions after reading this brochure, contact the Port to discuss your concerns. You may wish to read the California Relocation Assistance Act and Guidelines, which describe the relocation process in more detail.

ATTACHMENT 2:
**RELOCATION PAYMENT POLICY AND PROCEDURES FOR OBTAINING
RELOCATION ASSISTANCE AND PAYMENTS**

DRAFT

Claims and supporting documentation for relocation benefits must be filed with the **Port of San Francisco** ("Port") within eighteen (18) months from the date the claimant moves from the acquired property.

The procedure for the preparation and filing of claims and the processing and delivery of payments will be as follows:

1. Claimant(s) will provide all necessary documentation to substantiate eligibility for assistance.
2. Assistance amounts will be determined by the Port or its relocation agent in accordance with the provisions of California Relocation Law and Guidelines.
3. Required claim forms will be prepared by the Port or its relocation agent in conjunction with claimant(s). Signed claims and supporting documentation will be submitted by relocation personnel to the Port.
4. The Port will review and approve claims for payment or request additional information.
5. The Port will issue benefit checks which will be available for pick-up by Claimants, unless circumstances dictate otherwise.
6. Final payments will be issued after confirmation that the Project area premises have been completely vacated and actual occupancy at replacement property (if applicable) is verified.
7. Receipts of payment will be obtained and maintained in the Port's relocation case file.

ATTACHMENT 3:

SAN FRANCISCO RELOCATION APPEALS BOARD GUIDE

DRAFT



MEMORANDUM

December 9, 2011

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Ann Lazarus, Vice President
Hon. Francis X. Crowley
Hon. Doreen Woo Ho
Hon. Leslie Katz

FROM: Monique Moyer *M. Moyer*
Executive Director

SUBJECT: Informational Presentation of proposed Policy for Zero Waste Events and Activities Restricting the Sale, Use, and Distribution of Certain Plastic Bags, Plastic Bottles, Plastic Food Ware, and the Release of Balloons

DIRECTOR'S RECOMMENDATION: Informational Only – No Action

Background

This memorandum describes the Port's proposed policy regarding zero waste requirements for events held at the Port to address potential environmental impacts to Port property and the marine environment associated with large events. Port staff recommends imposition of the zero waste requirements described in the proposed policy for Zero Waste Events and Activities as a condition of holding an event on Port property that has an anticipated total public attendance of 15,000 or more people. In addition, Port staff encourages compliance with the policy for Zero Waste Events and Activities as a stated goal for all smaller events.

The Board of Supervisors adopted Resolution No. 679-02 in September 2002, setting a goal of 75% diversion from landfill by 2010 and promoting the highest and best use of recovered materials and authorizing the Commission on the Environment to adopt a zero waste goal, which it set as 2020. Additionally, the Board of Supervisors enacted the Plastic Bag Reduction Ordinance (Environment Code §§1701-1709) in March 2007, which requires certain stores to provide to customers only recyclable paper bags, compostable plastic bags and/or reusable bags to minimize environmental impacts and other challenges associated with single-use plastic shopping bags. Finally, San Francisco Special Events Ordinance No. 73-89 (Transportation Code §6.5) requires any applicant seeking permission for the temporary use or occupancy of a public street, a

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street fair or an athletic event within the City and County that includes the dispensing of beverages or which generates large amounts of other materials, to submit a recycling plan.

Port staff has been working with the San Francisco Department of the Environment to develop a new policy to address the issues associated with waste generated at events at the Port. The purpose of this policy is to 1) ensure that food waste streams from large outdoor events can be easily composted, and 2) marine life in the Bay is protected from plastics and litter through elimination or reduction of plastics at these events. Based on these discussions, Port staff has developed the attached proposed Policy for Zero Waste Events and Activities.

The Policy for Zero Waste Events and Activities shall apply to all events on Port property with a total expected attendance of 15,000 or more people aggregated over the number of days the event is held. The Policy for Zero Waste Events and Activities also serves as non-mandatory goals for events and activities with an expected attendance of fewer than 15,000 people. A copy of all events held on Port property in 2011 is attached hereto as an example of the type of events that could be subject to this proposed policy. The Port Commission may grant a waiver of any of the provisions of this Policy, in its sole discretion, if the provision that is waived is replaced by an action that (i) protects the Port's and Bay's natural habitat, (ii) is compliant with City law, and (iii) is in keeping with the environmental spirit of the Port's goals herein.

Next Steps

Port staff will review the draft Policy in consideration of comments from the Port Commission and the public. Port staff will return to the Port Commission for consideration and adoption of the Zero Waste Events and Activities Policy in the near future.

Prepared by: Brad Benson, Special Projects Manager
Richard Berman, Utility Specialist

For: Monique Moyer, Executive Director

Attachment

- EXHIBIT A: Zero Waste Events and Activities Policy
- EXHIBIT B: 2011 List of Special Events at the Port

EXHIBIT A

PORT OF SAN FRANCISCO ZERO WASTE EVENTS AND ACTIVITIES POLICY

December 2011

The Port of San Francisco is proud to host numerous events on Port property each year. These include fundraising walks and runs, "tailgate parties" at athletic events, Christmas tree sales, 4th of July Celebration, Oktoberfest, Fleet Week, and the proposed 34th America's Cup events (subject to pending environmental review). Some events can generate public participation of 15,000 or more people during the period of the event. Large outdoor events of this size typically generate a variety of plastic wastes from the sale of water in single-use bottles, the use of non-compostable plastic food ware, and the distribution of plastic bags to customers for food, merchandise and souvenirs. Along the Port's facilities, the inherent challenges of waste management at a large event are compounded by a windy environment and proximity to the San Francisco Bay.

Plastics

Several plastic waste items have significant environmental impacts. Single use plastic bags are difficult to recycle and can contaminate existing recycling and composting streams. These products are easily scattered by the wind and can create significant litter problems on shore and in water. Single-use plastic water bottles are resource intensive to produce, fill and transport, and contribute to waste management challenges at events. Non-food product plastic packaging is also difficult to recycle, may create a significant litter problem and harm the marine environment. The National Oceanic and Atmospheric Administration (NOAA) has recognized burst latex and Mylar balloons as a commonly reported source of marine debris. Balloons drift onto the surface of water and mimic the appearance of jellyfish and other floating organisms that are a natural food source for turtles, fish, dolphins, and shorebirds.

Plastic wastes are of increasing concern in marine environments and are a focus of volunteer and non-profit clean-up activities along the waterfront and bay shoreline. Plastics from litter, stormwater and maritime sources enter the marine environment where they degrade into microscopic bits and damage the ecology of our oceans. They can entangle wildlife and disrupt their internal organs and, when digested by marine life plastics can function as a pathway of exposure to several pollutants such as polychlorinated biphenyls (PCBs), dichlorodiphenyltrichloroethane (DDTs) and polycyclic aromatic hydrocarbons (PAHs). These pollutants can bio-accumulate and bio-magnify in the food chain, eventually making their way into human food sources. There are five ocean gyres, or large bodies of water that contain massive accumulations of degraded plastics around the globe.

Food-Related Wastes and Packaging

Large events produce large volumes of food-related wastes and packaging. San Francisco Special Events Ordinance No. 73-89 requires any applicant seeking permission for the temporary use or occupancy of a public street, a street fair or an athletic event within the City and County that includes the dispensing of beverages or which generates large amounts of other materials to submit a recycling plan to the department issuing the permit for the event or activity. Recycling plans shall include arrangements for collection and disposition of source separated recyclables and/or compostables by a service provider of the event organizer. San Francisco offers one of the most successful and comprehensive large municipal food scrap collection programs in the nation.

Events at the Port of San Francisco attract tourists who may be less familiar with the City's recycling and composting programs than residents and local business owners. In the experience of the Department of the Environment, the best way to manage food waste streams at large events is to require the use of either compostable or durable, reusable food service ware.

Exclusive use of compostable food service ware facilitates source separation and the diversion of organic materials from landfill, mitigates contamination in the City's recycling programs, and streamlines composting and related waste diversion activities during large events. A wide variety of compostable food service ware and bags are available in the marketplace. These are made from renewable resources such as paper, corn starch and sugarcane.

Reusable Water Bottles and Refilling Stations

The City's water delivery system consistently provides among the purest, safest drinking water in the nation from spring snowmelt stored in the Hetch Hetchy Reservoir and flowing down the Tuolumne River. Re-usable water bottles are easy to refill and use of Hetch Hetchy water guarantees a high quality of water for the public. Durable or compostable service ware can be combined with water filling stations to further reduce the need for single-use plastic packaging.

Proposed Policy for Zero Waste Events and Activities

Port staff has been working with the San Francisco Department of the Environment to develop a new policy to address the issues associated with waste generated at events at the Port of San Francisco. The purpose of this policy is to 1) ensure that food waste streams from large outdoor events can be easily composted, and 2) marine life in the Bay is protected from plastics and litter through elimination or reduction of plastics at these events. Based on these discussions, Port staff propose to implement the following Policy for Zero Waste Events and Activities.

1. The provisions of this Policy are mandatory for all events or activities ("Events") on Port property that the Port expects will attract 15,000 or more people aggregated over the number of days the event is held. Examples of these Events include but are not limited to: exhibitions or presentations of sporting events, tournaments, concerts, musical and theatrical performances and other forms of live entertainment, public ceremonies, fairs, carnivals, markets, shows, fundraising events, races or other public or private exhibitions and activities related thereto. This Policy shall apply to all persons or entities organizing, sponsoring or hosting an Event, including all vendors, subcontractors and agents ("Event Organizers") for an Event. Event Organizers of Events with an expected attendance of less than 15,000 people are strongly encouraged to comply with this Policy.
2. The sale, use and distribution of single-use plastic water bottles are prohibited. The Event Organizer must provide "water filling stations" supplied either by the San Francisco Public Utilities Commission or a vendor approved by the Port's Executive Director or her or his designee for use by individuals with reusable water bottles.
3. The sale, use and distribution of single-use disposable plastic bags are prohibited. The Event Organizer must use alternatives to single-use plastic bags such as recyclable paper, compostable plastic (preferably marine degradable) and/or reusable bags as those terms are defined by the City's Plastic Bag Reduction Ordinance.
4. The sale, use and distribution of single-use non-compostable plastic food ware are prohibited. The Event Organizer may only sell, use and distribute food service ware that is either labeled "compostable" and meets American Society for Testing and Materials (ASTM) standards for compostability or that is durable, washable, and reusable.
5. All compostable plastic food service ware must meet ASTM D-6400 standards for compostable plastics, have BPI certification (www.BPIworld.org), and be clearly labeled with a color-coded (green) identifying marker, such as a green sticker, stripe or band on all pieces of the product (for example the cup and lid must both be labeled), or other certification standards (such as marine degradability) as may be recommended from time to time by the San Francisco Department of the Environment and approved by the Port Executive Director.

6. The intentional release of balloons on Port property in connection with an Event subject to this Policy is prohibited.
7. Event Organizers are encouraged to minimize packaging and avoid the use of disposable plastic packaging.
8. The Port reserves the right at any time and from time to time to revise this Policy or to make such other and further Rules and Regulations as the Port shall determine are in the best interest of the Port, the San Francisco Bay, and the community, or that comply with City law.
9. For Events that the Port expects will attract 15,000 or more people in the aggregate, all licenses, leases, or other real property agreements with Event Organizers entered into after the date of adoption of this Policy by the Port Commission ("the adoption date"), and all amendments to licenses, leases, or other real property agreements with Event Organizers made beginning in 2012 shall require the Event Organizer to comply with this Policy. Such Event Organizer's failure to comply with this Policy shall be deemed a material breach of the agreement and the Port may pursue remedies, including liquidated damages and termination of the agreement.
10. The Port Commission may grant a waiver of any of the provisions of this Policy, in its sole discretion, if the provision that is waived is replaced by an action that (i) protects the Port's and Bay's natural habitat, (ii) is compliant with City law, and (iii) is in keeping with the environmental spirit of the Port's goals herein.

This Policy for Zero Waste Events and Activities shall apply to all events on Port property with a total expected attendance of 15,000 or more people aggregated over the number of days the event is held. This Policy for Zero Waste Events and Activities also serves as non-mandatory goals for events with an expected attendance of less than 15,000 people.

EXHIBIT B

2011 SPECIAL EVENTS

Verizon COLT	January 2011	\$ 500.00
American Frozen Food Institute Fun Run	February 2011	\$1,000.00
Verizon COLT	January 2011	\$ 900.00
Sunday Streets	March 2011	Waived
Giants Play Ball Lunch	March 2011	\$ 3,116.67
Leukemia Lymphoma Society Man/Women of the Year	May 2011	0
Tipping Point Community	May 2011	\$22,500.00
San Francisco Kidney Walk	May 2011	\$ 1,000.00
Thrasher Magazine Mini Ramp Jam	May 2011	
City of Hope	June 2011	\$ 1,000.00
San Francisco Giants Wine Fest	June 2011	\$
4 th of July Celebration	July 2011	Waived
Avon Walk for Breast Cancer	July 2011	\$ 1,000.00
Philippine Nurse s Association	July 2011	\$ 1,000.00
San Francisco Marathon	July 2011	\$ 6,000.00
The Giant Race	July 2011	\$ 2,000.00
Cal Football Tailgate Zone	September - November 2011	\$65,000.00
A Taste of South Beach	September 2011	0
J P Morgan Chase Corporate Challenge (Pier 48)	September 2011	\$ 7,000.00
J P Morgan Chase Corporate Challenge (Race Route)	September 2011	\$ 2,000.00
American Heart Association "Heart Walk"	September 2011	\$ 1,000.00
Susan G. Komen "Race for the Cure"	September 2011	\$ 1,000.00
Alzheimer Association Memory Walk	September 2011	\$ 1,000.00
Oktoberfest	September - October 2011	\$30,500.00
Glide Floss Bridge to Bridge Run	October 2011	\$ 2,000.00
American Diabetes Association	October 2011	\$ 1,000.00
Madonna del Lume Celebration Committee	October 2011	Waived

Fleet Week	October 2011	Waived
Nike Women's Marathon	October 2011	0
Bay Area Science Festival	October 2011	0
Cirque Du Soliel "Totem"	October - December 2011	0
Delancey Street Christmas Tree Lot	November - December 2011	\$ 3,528.00
AGU 5K Fun Run	December 2011	\$ 1,000.00
Zynga	December 2011	\$13,000.00
Salesforce.com	December 2011	\$19,500.00
New Year's Eve Fireworks	December 2011	Waived
Kraft Fight Hunger Bowl	December 2011	
TOTAL		\$187,544.67



MEMORANDUM

December 9, 2011

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Ann Lazarus, Vice President
Hon. Francis X. Crowley
Hon. Doreen Woo Ho
Hon. Leslie Katz

FROM: Monique Moyer *M Moyer*
Executive Director

SUBJECT: Request approval of Lease No. L-15004 with Bauer's Intelligent Transportation, Inc. subject to approval by the Board of Supervisors, for a ten year lease of Office, Shed and Yard space at Pier 50, Sheds A & C (Resolution No. 11-83); Approval of License No. L-15074 with Bauer's Intelligent Transportation Inc. for interim use of Office space at 401 Terry Francois Boulevard with a one year term and an initial six month free rent period (Resolution No. 11-84); and approval of License No. L-15075 with Bauer's Intelligent Transportation Inc. for interim use of Shed and Yard space and access to Office space at Pier 50 Shed A & C, with no rent (Resolution No. 11-85).

DIRECTOR'S RECOMMENDATION: Approve Attached Resolutions

BACKGROUND

Since August 15, 1999 Bauer's Intelligent Transportation Inc. ("Bauer's") through its predecessor entity, Bauer's California Coach Sales and Service, Inc., has been a tenant of the Port of San Francisco at Pier 27. The premises has been comprised of shed, office and exterior paved space directly related to the operation, maintenance and storage of motor coach services. Bauer's is a Tenant in Good Standing pursuant to Port Commission policy.

Bauer's Intelligent Transportation, a California corporation, provides a diversified suite of transportation solutions and luxury vehicles for corporations, government agencies, transit systems, schools, airports and transportation managers. Bauer's won the 2009 distinguished Ebby Award presented by the San Francisco business community for the

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company that has demonstrated a capacity for creativity and innovation, experienced growth and established itself as a leader in its industry.

The United Motor Coach Association presented Bauer's the prestigious "Green Highway" award in 2009 for the company's green practices and industry leadership. In addition Bauer's was presented the coveted "Silver Cup" award for safety performance and safety program innovation for four of the past five years.

Bauer's specializes in the application of strategies and programs to reduce travel demand - specifically that of single-occupancy private vehicles. Managing demand can be a cost-effective alternative to increasing capacity. A demand management approach to transportation has the additional potential to deliver better environmental outcomes, improved public health, stronger communities, and more prosperous and livable cities.

Bauer's has created one of the largest private eco-friendly fleets in the industry using CNG, propane, hybrid and bio diesel vehicles. Today, fully 97% of all the company's miles traveled are green miles, meeting the most stringent air quality standards developed by the California Air Resources Board to be put into effect in 2013.

Since its beginning as a Port tenant in 1999, Bauer's transitioned from a limousine company for the individual luxury passenger market into a full service transportation company. The business now primarily services corporate accounts such as Google, Yahoo and Cisco as well as large special events such as Outside Lands, Treasure Island Music Festival and the recent America's Cup World Series race in San Diego.

Bauer's business approach integrates three core principles; sustainability, luxury and technology into the motor coach customer experience. This revamped business approach required a major investment in the type, number and size of its fleet vehicles along with a corresponding increase in its required real estate facilities.

In 2004, in an effort to expand its operations, the Port and Bauer's entered into Lease No. L-13562 (the "Original Lease") which allowed for approximately 36,000 square feet of shed space; 1,400 square feet of office space; and 2,600 square feet of paved yard space at Pier 27. In order to maintain maximum flexibility for both parties, the lease term was limited to nine months and has been a month to month tenancy since.

In 2007, Bauer's entered into a parking agreement with Central Parking and more recently with Priority Parking, for additional monthly parking to accommodate another expansion of its fleet as well as new employee parking. Both parking operators serve under leases with the Port, providing the parking services for the exterior paved lot ("valley") between Pier 27 and 29, the Pier 27 apron and the adjacent Pier 29 Shed.

Pier 27-29 is currently occupied by a variety of maritime, office, entertainment and industrial tenants with often conflicting uses. Due to its ability to berth large cruise ships, Pier 27 has experienced an increase in number and duration of cruise calls over the last several years. To accommodate passenger boarding, provisioning and security mandates, significant portions of the shed and the valley parking lot are required to be vacated for an extended period, which significantly impacts Bauer's operations.

In October of 2011, portions of Pier 29, operated under the Priority Parking lease including the area where Bauer's employees parked their personal vehicles, were deemed structurally deficient by the Port Engineering Division, which has further compromised Bauer's ability to operate at Pier 27. The unsafe areas have now been fenced off and are no longer available for Bauer's employees to park. While an interim solution with Priority Parking has been agreed to in the valley, it requires additional staff and management time to rotate vehicles in the allotted space and has constricted Bauer's operations.

Due to its continuing efforts to expand and the restrictions associated with operating from Pier 27, Bauer's desires to secure a new site that would provide a long term lease, major identity for its corporate headquarters, increased shed space for operations and sufficient exterior paved yard space for vehicle storage.

Over the past year, Bauer's conducted an extensive search for potential sites, including several off-Port properties and outside San Francisco. Both Bauer's and the Port agreed that Pier 50 is the most feasible location for a variety of reasons. Shed C contains the Port's largest available contiguous interior Shed space, provides good circulation for its fleet, has an existing environmentally approved wash station and offers an adjacent fenced yard separate from any other Port tenants. Shed A offers vacant office space enabling Bauer's to consolidate its management and administrative staff in one facility and has signage facing Terry Francois Boulevard. Overall the site is in close proximity to major highways, is centrally located within the city and has the desired corporate identity being adjacent to AT&T Park.

The lease agreement for Pier 50 ("New Lease"), as proposed to the Port Commission and subject to Board of Supervisor approval, provides seven months initial rent abatement to offset an anticipated extended construction period and higher than normal infrastructure costs in connecting its telecommunications/data lines to multiple buildings. Bauer's will invest approximately \$687,000 in improvements to both Sheds A and C and in return, the Port will provide \$515,000 in rent credits to offset the core and shell portion of the improvements. All rent credits are subject to verification by the Port through receipts and inspections of any work performed. The rent credits will commence after the rent abatement period, starting on the 8th month continuing until approximately the 17th month. Thereafter there are no more rent offsets and Bauer's will be responsible for the full monthly rent as scheduled.

Per Bauer's request to assist in the transition to larger space, the rent schedule is structured to provide lower rates during the initial years of the New Lease then escalate on a higher than typical incremental basis over the remainder of the ten year term. For comparison purposes, the second year's monthly rent under the New Lease represents an approximate 183% increase over Bauer's existing Pier 27 monthly rent. The proposed rent structure for the New Lease reflects market rate terms given the size of transaction, the cost savings and probability of lost revenue to the Port of not having to divide the premises for multiple tenants and the upfront investment in core and shell improvements to be made by Bauer's.

The New Lease will provide the Port the following financial and operational benefits: a long term lease in the Port's largest contiguous vacancy, an expanded capacity to operate

tenant's business in a more compatible location, tenant's investment of approximately \$600,000 in core and shell improvements, approximately \$9 million in total rent over the term of the lease, tenant assumes full responsibility for its pro rata share of utilities and retention of a long-term tenant.

The Port and Bauer's now desire to terminate the Original Lease and enter into a comprehensive New Lease for expanded office, shed space and exterior paved yard space, for a term of ten (10) years. The New Lease agreed upon terms are outlined as follows:

PROPOSAL

Tenant: Bauer's Intelligent Transportation, a California corporation.

Premises: Parcel A: Approximately 4,370 square feet of office space located at Pier 50 Shed A. (See Exhibit A)

Parcel B: Approximately 68,777 square feet of shed space located at Pier 50 Shed C. (See Exhibit A-1)

Parcel C: Approximately 50,347 square feet of paved exterior fenced yard and dock space located on the east side of Pier 50 Shed C. (See Exhibit A-1)

Term: Ten (10) years.

Commencement Date: The date after approval of this Lease by the Board of Supervisors and upon full execution by the Port.

Rent Commencement: The first day of the eighth (8th) month after the Commencement Date.

Use: The premises will be used as the headquarters for the operation of a motor coach business including the storage, maintenance and minor repair of company owned vehicles.

Monthly Base Rent:

Year	Monthly Rent	Annual Rent
1	50,885	610,627
2	57,016	684,199
3	62,184	746,212
4	70,287	843,450
5	78,938	947,253
6	83,055	999,659
7	87,259	1,047,113
8	91,464	1,097,568
9	95,668	1,148,022
10	99,829	1,197,952

<u>Security Deposit:</u>	Port shall retain Tenant's existing Security Deposit of \$44,118.23 under Lease No. L-13562 which will be used as a Security Deposit for the New Lease. No later than the first day of the 16 th month of the Term, Tenant shall increase its Security Deposit by \$55,711.08 to a total of \$99,829.31. No later than the first day of the 61 st month of the Term, Tenant shall increase its Security Deposit by \$99,829.31, which at Tenant's option, may be secured by an irrevocable standby Letter of Credit on a form and from a financial institution acceptable to the Port, in its sole discretion.
<u>Tenant Improvements:</u>	Tenant, at its sole cost and expense, must complete the following Initial Tenant Improvements: building core and shell improvements and general office buildout in Shed A including plumbing, lighting, electrical upgrades, telephone and data cabling, security cameras, fencing, and new bathrooms in Shed C. The Initial Tenant Improvements shall remain on the Premises upon expiration or earlier termination of this Lease. Tenant estimates the total cost of the Initial Tenant Improvements to be approximately \$687,000.
<u>Rent Credit:</u>	Tenant shall be entitled to a rent credit not to exceed Five Hundred Fifteen Thousand Dollars \$515,000 to be taken monthly against Monthly Base Rent in months 8-17 of the Term. The Executive Director will have the authority to adjust the timing, but not the maximum amount, of the rent credit.
<u>Maintenance and Repair:</u>	Except for maintenance and repair of the exterior structure and substructure of Sheds A and C and the sump pump in Parcel B, Tenant shall be responsible for all other maintenance and repair for the entire Premises.
<u>Utilities:</u>	Tenant shall be responsible for its pro rata share of all utilities and all other services to be furnished on, in or to the Premises.
<u>Operations Plan:</u>	Tenant must maintain an Operations Plan acceptable to the Port including the following elements consistent with laws, industry standards, best practices and good house-keeping: spill prevention and response; allowable vehicle maintenance and repair activities; and storage and handling of hazardous materials. Port may, from time to time, review Tenant's Operations Plan and make recommendations for revisions.
<u>Parking:</u>	Tenant shall have the use of the seven (7) parking spaces directly in front of its corporate office in Shed A at no charge during the Term. (See Exhibit A-2)

Standard Provisions: The Lease contains all current lease provisions on the standard form approved by the City Attorney including Port's Right to Terminate, Insurance, Indemnity and Exculpation, Hazardous Materials, etc.

Proposed License Agreement L-15074

Bauer's will require a license agreement to allow temporary use of up to 2,900 square feet of office space located in 401 Terry Francois Blvd. (see Exhibits B and B-1) for up to one year to allow sufficient time to construct the office portion of the New Lease No. L-15004. To facilitate the New Lease, the Port has provided the license area for the initial six months at no charge. In the event Bauer's is using the license area beyond the six month period, monthly fees shall be due at the current parameter rate of \$2.42 per square foot.

The license area will be delivered in its current "as is" condition with no improvements required by the Port. The license agreement will be the Port's standard license agreement and will use Bauer's existing security deposit.

Proposed License Agreement L-15075

Bauer's will require a license agreement to allow temporary use of the proposed Pier 50 Shed C premises and temporary access to the Shed A premises (see Exhibits C and C-1) to further accommodate the Port's own maritime activities at Pier 27. In addition, through use of a license agreement, Bauer's may temporarily relocate operations into Pier 50 enabling the Port's scheduled Hazardous Material Removal action plan in Pier 27 to be fully implemented in a timely manner. The license will incorporate the Operations Plan required under the New Lease.

The proposed license has no fees and will terminate upon commencement of the proposed New Lease. The license agreement will be the Port's standard license agreement and will use Bauer's existing security deposit.

RECOMMENDATION

Port staff recommends the Port Commission approve the New Lease and direct the Executive Director to seek Board of Supervisor's approval of the New Lease No. L-15004 (Resolution No. 11-83).

Port staff recommends the Port Commission adopt the attached resolutions approving License Agreement L-15074 (Resolution No. 11-84) for temporary office space and License Agreement L-15075 (Resolution No. 11-85) for temporary fleet parking with Bauer's Intelligent Transportation Inc.

Prepared by: Jay Edwards, Senior Property Manager

For: Susan Reynolds, Deputy Director, Real Estate

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 11-83

- WHEREAS, Charter Section B3.581 grants to the Port Commission the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within the Port jurisdiction; and
- WHEREAS, Bauer's Intelligent Transportation, Inc. ("Bauer's"), through its predecessor entity, Bauer's California Coach Sales and Service, Inc., has been a Port tenant at Pier 27 since 1999 and a tenant under its current Port Lease No. L-13562 (the "Original Lease") since 2004; and
- WHEREAS, The premises has been comprised of shed, office and exterior paved space directly related to the operation, maintenance and storage of motor coach services and Bauer's is a Tenant in Good Standing pursuant to Port Commission policy; and
- WHEREAS, Pier 27 is currently occupied by a variety of maritime, office and industrial tenants with often conflicting uses. Due to its ability to berth large cruise ships, Pier 27 has experienced a significant increase in cruise calls over the last several years. To accommodate passenger boarding, provisioning and security mandates, significant portions of the shed and exterior yard are required to be vacated for an extended period; and
- WHEREAS, Bauer's has now outgrown the existing premises and has had to lease additional space for parking; and
- WHEREAS, In October of 2011, some of this additional space became unusable due to structural deficiencies; and
- WHEREAS, Bauer's desires to secure a site on Port property that would accommodate its current operation and desired continued expansion and where the Port could offer a long term lease; and
- WHEREAS, The Port and Bauer's now desire to terminate the Original Lease and enter into a comprehensive new long term lease for expanded office, shed space and exterior paved yard space; and
- WHEREAS, The Port and Bauer's have completed negotiations regarding a new ten year lease for space at Pier 50, Sheds A and C under terms and conditions as outlined in the Memorandum dated December 9, 2011 accompanying this Resolution; and, now, therefore, be it

RESOLVED, That the Port Commission approves, subject to Board of Supervisors' approval, Lease No. L-15004 and authorizes and directs the Executive Director or her designee to forward the Lease to the Board of Supervisors (the "Board") for approval, pursuant to the Board's authority under Charter Section 9.118, and upon the effectiveness of such approval, to execute the Lease; and, be it further

RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments or other modifications to the Lease that the Executive Director, in consultation with the City Attorney, determines are in the best interests of the Port, do not materially increase the obligations or liabilities of the City or Port, and are necessary or advisable to complete the transactions which the Lease contemplate and effectuate the purpose and intent of this Resolution, such determination to be exclusively evidenced by the execution and delivery by the Executive Director of the Lease.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of December 16, 2011.

Secretary

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 11-84

- WHEREAS, Charter Section B3.581 grants to the Port Commission the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within the Port jurisdiction; and
- WHEREAS, Bauer's Intelligent Transportation, Inc. ("Bauer's"), through its predecessor entity, Bauer's California Coach Sales and Service, Inc., has been a Port tenant at Pier 27 since 1999 and a tenant under its current Port Lease No. L-13562 (the "Original Lease") since 2004; and
- WHEREAS, The premises has been comprised of shed, office and exterior paved space directly related to the operation, maintenance and storage of motor coach services and Bauer's is a Tenant in Good Standing pursuant to Port Commission policy; and
- WHEREAS, The Port and Bauer's now desire to terminate the Original Lease and, subject to Board of Supervisors' approval, enter into a comprehensive new long term lease in Pier 50 Shed A & C for expanded office, shed space and exterior paved yard space as specifically described in the Memorandum dated December 9, 2011 and in Resolution No. 11-83 ("Lease No. L-15004"); and
- WHEREAS, Bauer's will require a temporary license agreement to allow Bauer's temporary use of up to 2,900 square feet of office space located in 401 Terry Francois Blvd in order to allow sufficient time to construct the office portion of Lease No. L-15004, and
- WHEREAS, The Port and Bauer's have completed negotiations for a temporary license for office space at 401 Terry Francois Blvd. for a period of up to one year with the initial six months at no charge and under terms and conditions as outlined in the Memorandum dated December 9, 2011 accompanying this Resolution; and, now, therefore, be it
- RESOLVED, That the Port Commission approves License No. L-15074 and authorizes the Executive Director or her designee to execute the License; and, be it further

RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments or other modifications to the License that the Executive Director, in consultation with the City Attorney, determines are in the best interests of the Port, do not materially increase the obligations or liabilities of the City or Port, and are necessary or advisable to complete the transactions which the License contemplate and effectuate the purpose and intent of this Resolution, such determination to be exclusively evidenced by the execution and delivery by the Executive Director of the License.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of December 16, 2011.

Secretary

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 11-85

- WHEREAS, Charter Section B3.581 grants to the Port Commission the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within the Port jurisdiction; and
- WHEREAS, Bauer's Intelligent Transportation, Inc. ("Bauer's"), through its predecessor entity, Bauer's California Coach Sales and Service, Inc., has been a Port tenant at Pier 27 since 1999 and a tenant under its current Port Lease No. L-13562 (the "Original Lease") since 2004; and
- WHEREAS, The premises has been comprised of shed, office and exterior paved space directly related to the operation, maintenance and storage of motor coach services and Bauer's is a Tenant in Good Standing pursuant to Port Commission policy; and
- WHEREAS, The Port and Bauer's now desire to terminate the Original Lease and, subject to Board of Supervisors' approval, enter into a comprehensive new long term lease for expanded office, shed space and exterior paved yard space as specifically described in the Memorandum dated December 9, 2011 and in Resolution No. 11-83 ("Lease No. L-15004"); and
- WHEREAS, The Port and Bauer's have completed negotiations regarding a new ten year lease for space at Pier 50, Sheds A and C under terms and conditions as outlined in the Memorandum dated December 9, 2011 accompanying this Resolution; and
- WHEREAS, Bauer's will require a temporary license agreement to allow Bauer's initial access to and use of the proposed Pier 50 premises in order to transition from Pier 27 and to accommodate the schedule for the Port's Hazardous Material Removal action in Pier 27; and
- WHEREAS, The Port and Bauer's have completed negotiations regarding a no fee temporary license for space at Pier 50, Sheds A and C under terms and conditions as outlined in the Memorandum dated December 9, 2011 accompanying this Resolution; and, now, therefore, be it
- RESOLVED, That the Port Commission approves License No. L-15075 and authorizes the Executive Director or her designee to execute the License; and, be it further

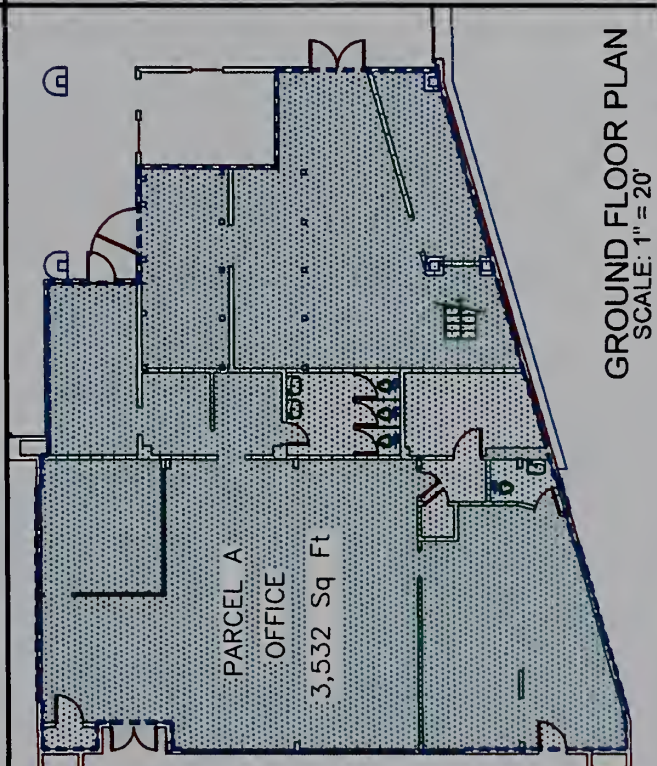
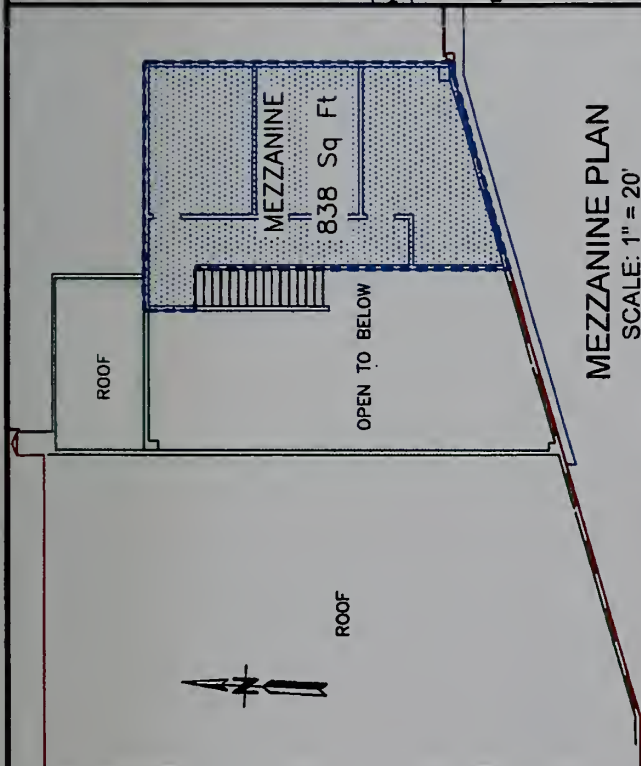
RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments or other modifications to the License that the Executive Director, in consultation with the City Attorney, determines are in the best interests of the Port, do not materially increase the obligations or liabilities of the City or Port, and are necessary or advisable to complete the transactions which the License contemplates and effectuate the purpose and intent of this Resolution, such determination to be exclusively evidenced by the execution and delivery by the Executive Director of the License.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of December 16, 2011.

Secretary

INITIALS: PORT: _____ TENANT: _____ DATE: _____

EXHIBIT A



PARCEL A

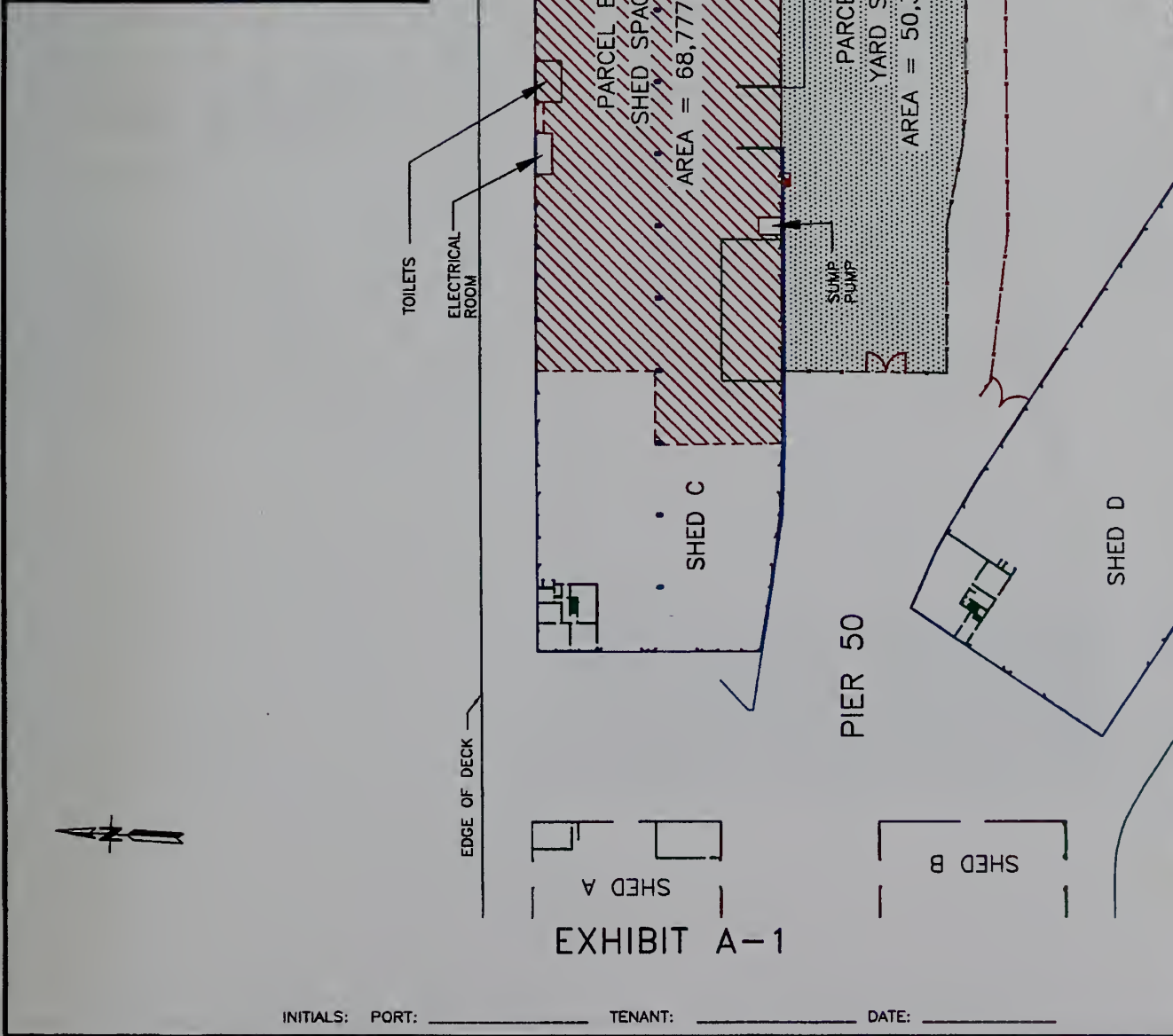
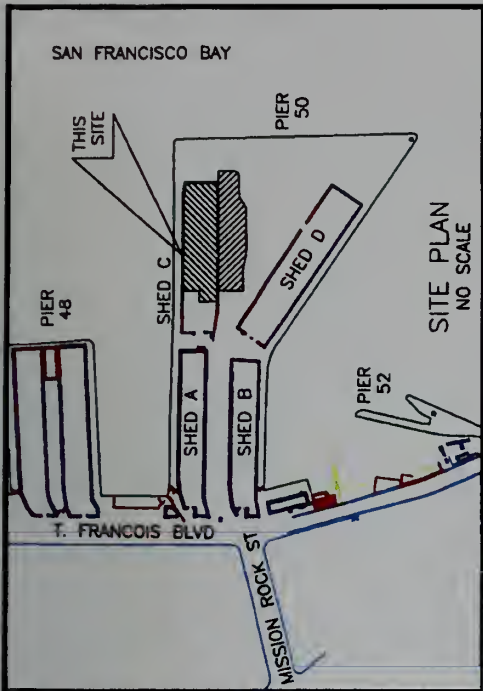
PIER 50 SHED A


OFFICE = 3,532 Sq Ft

MEZZANINE = 838 Sq Ft

4,370 Sq Ft

LEASE NO. L-15004	 SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	BAUER INTELLIGENT TRANSPORTATION	DRAWN BY: ECC CHECKED BY: J. EDWARDS PLACE CODE NO.	DATE: NOV 22, 2011 SCALE: AS SHOWN	SHEET NO. 1500-SHEDA	OF SHEETS
			C:\US PROPERTY FILES\Local Maps\EXHIBITS-PIERS\Parcel\Shed\PSA-Bauer.dwg			



LEASE NO. L-15004	 SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	TENANT BAUER INTELLIGENT TRANSPORTATION	DRAWN BY: ECC CHECKED BY: J. EDWARDS PLACE CODE NO.	DATE: SEPT 12, 2011 SCALE: 1" = 100' SHEET NO.
			1500-SHEDC OF SHEETS	

INITIALS: PORT: _____ TENANT: _____ DATE: _____

C:\08 PROPERTY FILES\Lease Maps\EXHIBITS-PIERS\PIER50\ShedC\PS50C-Proposed.dwg

SAN FRANCISCO BAY

THIS
SITE

TERRY FRANCOIS BLVD

BALLPARK
PARKING AREA

MISSION ROCK

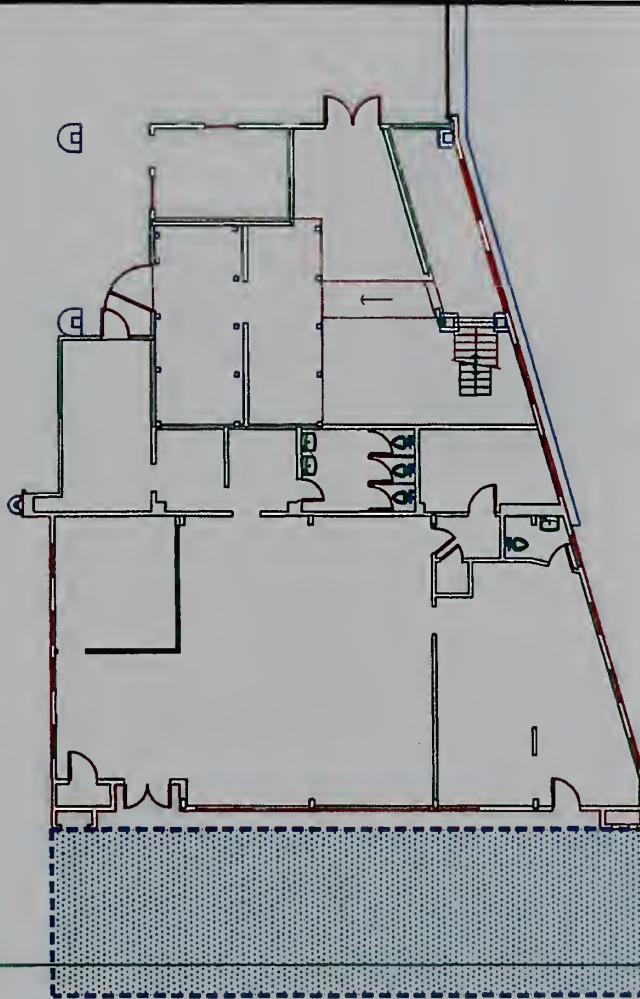
MISSION BAY
DEVELOPMENT PROJECT



LOCATION PLAN

NO SCALE

TENANT PARKING
PIER 50 SHED A



PLAN

SCALE: 1" = 20'

EXHIBIT A-2

INITIALS: PORT: _____ TENANT: _____ DATE: _____


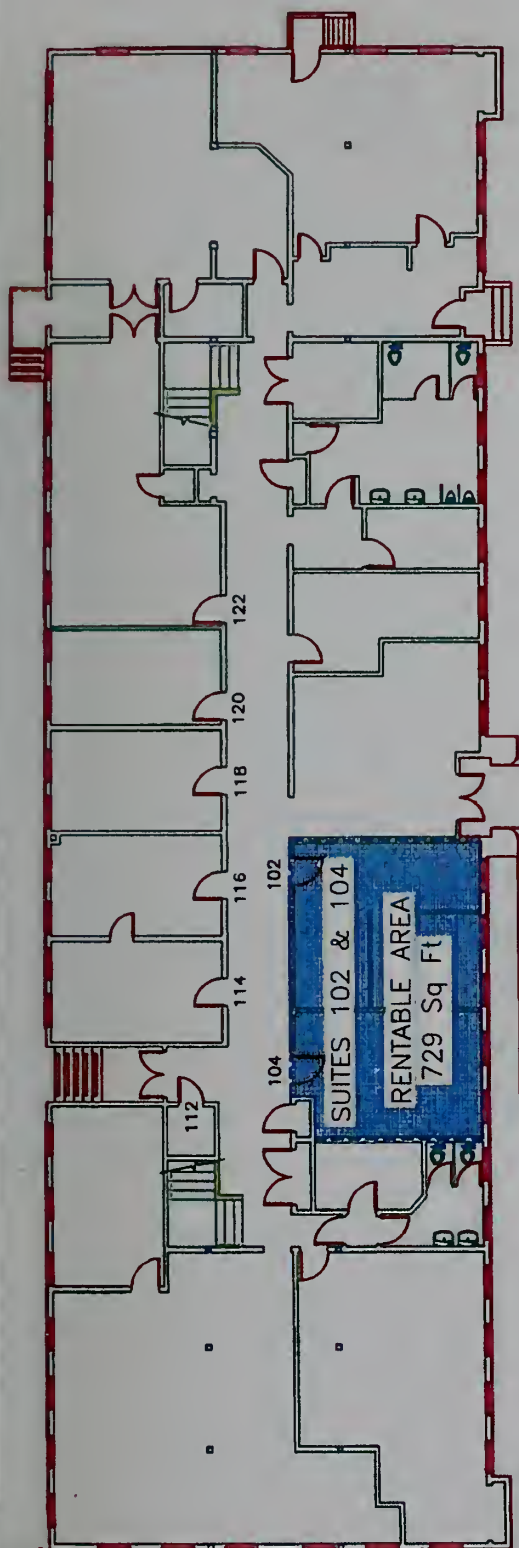
LEASE NO. L-15004	 SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	BAUER INTELLIGENT TRANSPORTATION	DRAWN BY: ECC CHECKED BY: J. EDWARDS PLACE CODE NO.	DATE: NOV 22, 2011 SCALE: AS SHOWN	SHEET NO. 1500-SHEDA	OF SHEETS
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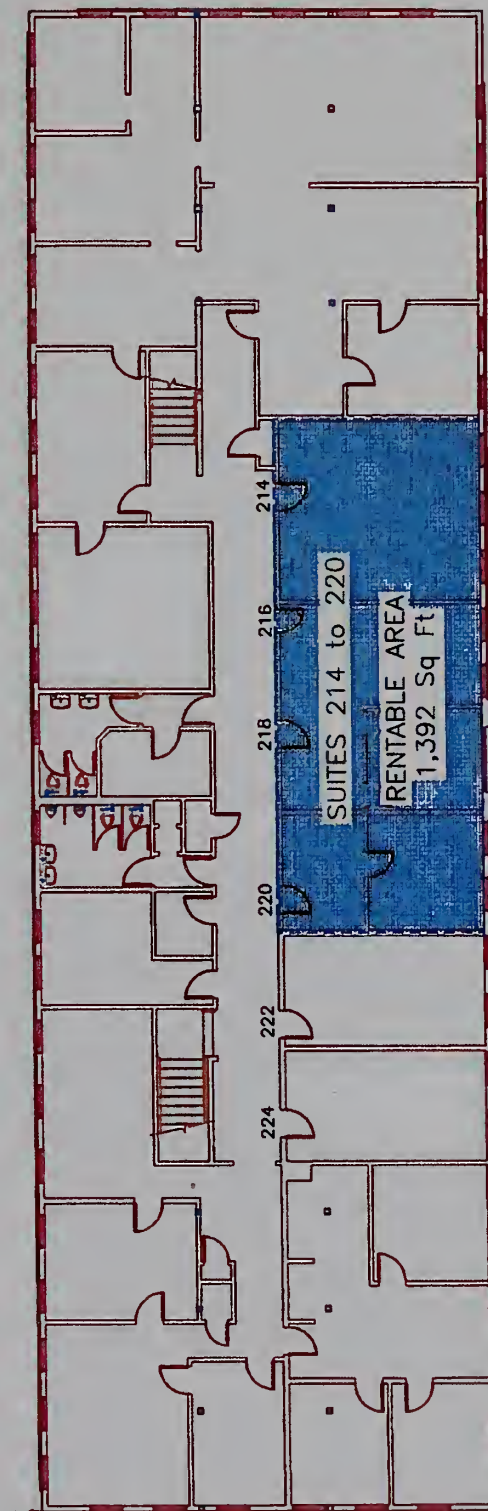


EXHIBIT B


INITIALS: PORT: _____ TENANT: _____ DATE: _____



PIER 50 ADMIN BLDG
FIRST FLOOR



PIER 50 ADMIN BLDG
SECOND FLOOR

LEASE NO. L-15074	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING 	TENANT BAUER INTELLIGENT TRANSPORTATION	DRAWN BY: ECC	DATE: NOV 22, 2011
			CHECKED BY: J. EDWARDS PLACE CODE NO. 2505--BLO01	SCALE: 1" = 20' SHEET NO. OF SHEETS

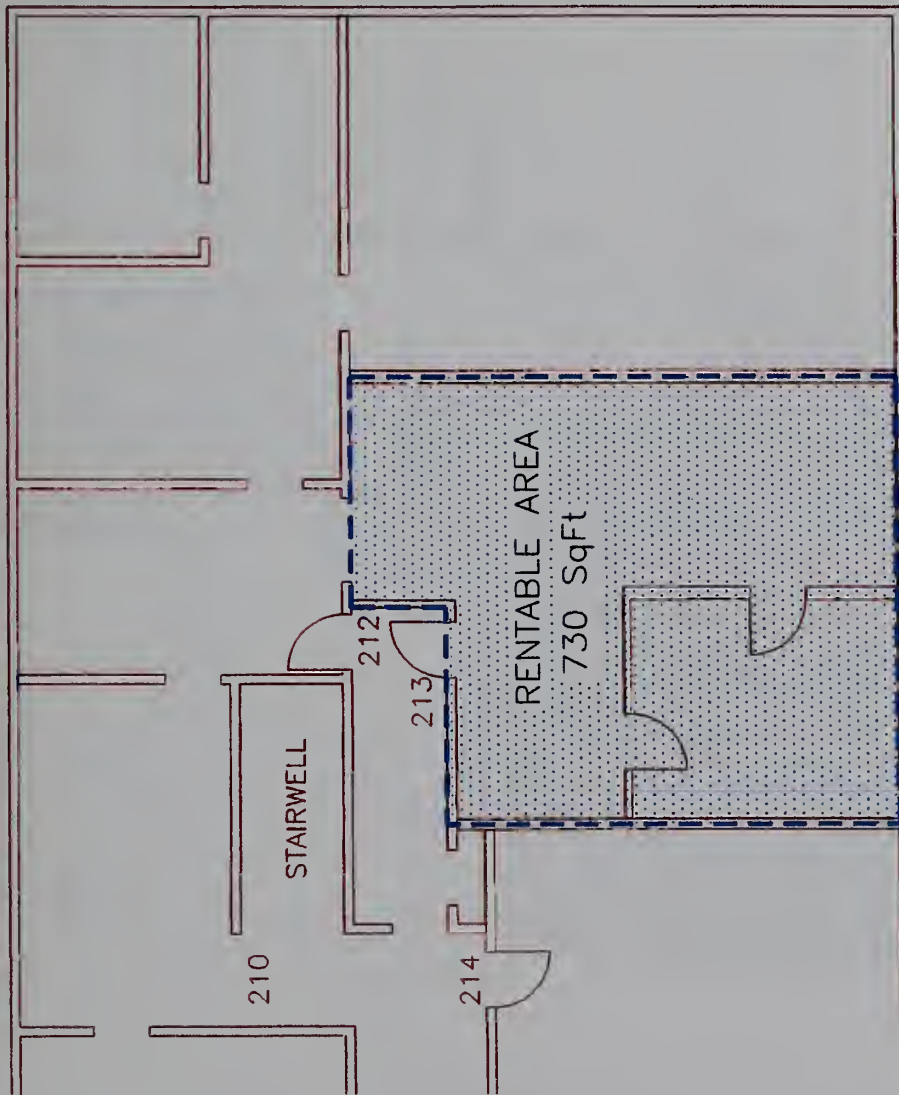


EXHIBIT B-1

PIER 50 ADMINISTRATION BUILDING
SECOND FLOOR SUITE 213

THIS
SITE



TERRY FRANCOIS BLVD.

LOCATION PLAN

EXPANSION
PREMISES

INITIALS: PORT _____ TENANT: _____ DATE: _____

LEASE NO.

L-15074

SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

TENANT

BAUER INTELLIGENT
TRANSPORTATION

DRAWN BY: ECC

CHECKED BY: E. LAMB

SCALE: NONE

DATE: NOV 22, 2011

PLACE CODE NO.

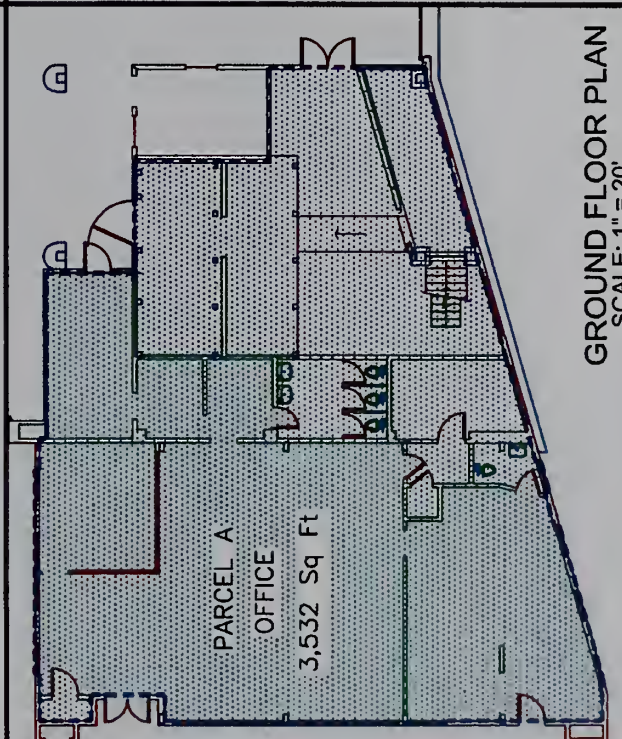
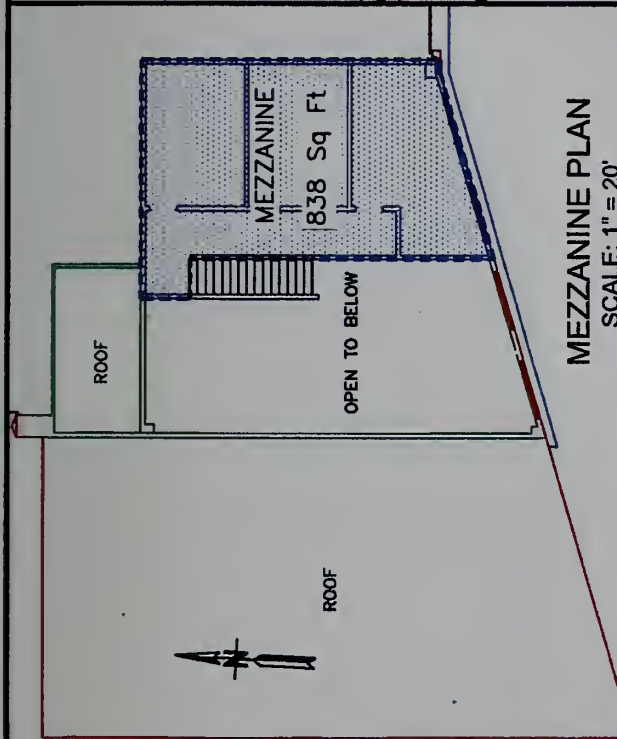
2505-BL001-213

SHEET NO.

OF SHEETS

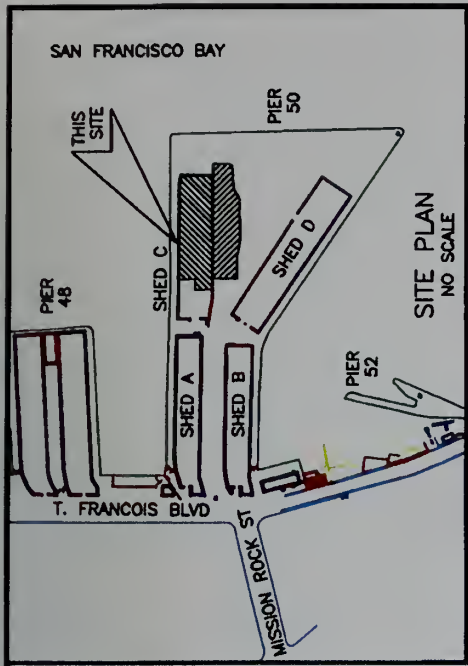
EXHIBIT C

INITIALS: PORT: _____ TENANT: _____ DATE: _____



PARCEL A
PIER 50 SHED A
OFFICE = 3,532 Sq Ft
MEZZANINE = 838 Sq Ft
4,370 Sq Ft

LEASE NO. L-15075	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	BAUER INTELLIGENT TRANSPORTATION	DRAWN BY: ECC CHECKED BY: J. EDWARDS PLACE CODE NO.	DATE: NOV 22, 2011 SCALE: AS SHOWN
			SHEET NO. 1500-SHEDA	SHEET NO. OF SHEETS



TOILETS

ELECTRICAL ROOM

EDGE OF DECK

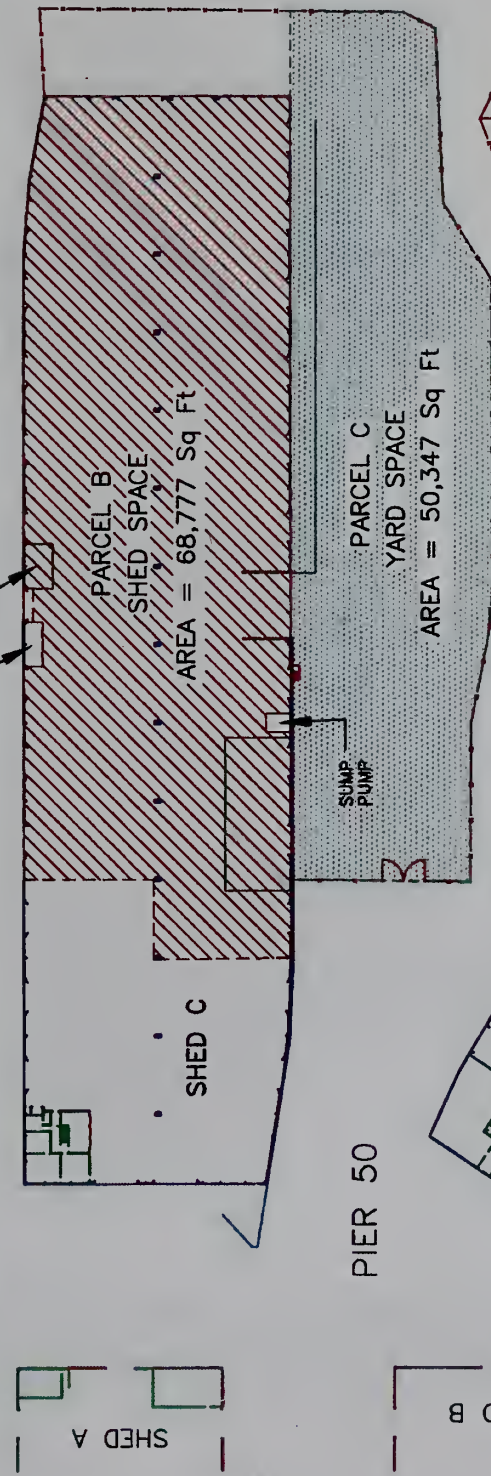


EXHIBIT C-1

INITIALS: PORT: _____ TENANT: _____ DATE: _____

LEASE NO. L-15075	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	TENANT BAUER INTELLIGENT TRANSPORTATION	DRAWN BY: ECC CHECKED BY: J. EDWARDS PLACE CODE NO.	DATE: SEPT 12, 2011 SCALE: 1"= 100' SHEET NO.	SHEETS OF
			1500-SHEDC		

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SAN FRANCISCO PORT COMMISSION

GOVERNMENT
DOCUMENTS DEPT

JAN 13 2012

SAN FRANCISCO
PUBLIC LIBRARY

**DECEMBER 16, 2011
MINUTES OF THE SPECIAL MEETING**

**MEMBERS, PORT COMMISSION
HON. KIMBERLY BRANDON, PRESIDENT
HON. ANN LAZARUS, VICE PRESIDENT
HON. FRANCIS X. CROWLEY
HON. DOREEN WOO HO
HON. LESLIE KATZ**

**MONIQUE MOYER, EXECUTIVE DIRECTOR
AMY QUESADA, COMMISSION SECRETARY**

CITY & COUNTY OF SAN FRANCISCO PORT COMMISSION

MINUTES OF THE SPECIAL MEETING DECEMBER 16, 2011

1. CALL TO ORDER / ROLL CALL

Commission President Kimberly Brandon called the meeting to order at 9:10 a.m. The following Commissioners were present: Kimberly Brandon, Ann Lazarus, Francis X. Crowley, Doreen Woo Ho and Leslie Katz.

2. APPROVAL OF MINUTES – November 15, 2011

ACTION: Commissioner Lazarus moved approval; Commissioner Crowley seconded the motion. All of the Commissioners were in favor; the minutes of the November 15, 2011 meeting were adopted.

3. PUBLIC COMMENT ON EXECUTIVE SESSION

4. EXECUTIVE SESSION

A. Vote on whether to hold closed session.

ACTION: Commissioner Lazarus moved approval; Commissioner Crowley seconded the motion. All of the Commissioners were in favor.

At 9:11 a.m., the Commission withdrew to executive session to discuss the following matters:

An Executive Session has been calendared to discuss the following matters:

- (1) CONFERENCE WITH LEGAL COUNSEL AND REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8. ***This session is closed to any non-City/Port representative:**

- a. Property: Piers 19, 23, 26, 27, 28, 29, 29½, 30-32, 80, Piers 14-22½, 32-36 and 54 water areas and Seawall Lot 330
Person Negotiating: Port: Jonathan Stern, Assistant Deputy Director, Planning & Development and Brad Benson, Special Projects Manager
*Negotiating Parties: America's Cup Event Authority, LLC: Stephen Barclay, Craig Thompson and Patrick Jost

5. RECONVENE IN OPEN SESSION

At 10:25 a.m., the Port Commission withdrew from executive session and reconvened in open session.

ACTION: Commissioner Lazarus made a motion to adjourn executive session and reconvene in open session; Commissioner Crowley seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Lazarus made a motion not to disclose any information discussed in executive session. Commissioner Crowley seconded the motion. All of the Commissioners were in favor.

6. ANNOUNCEMENTS: The Port Commission Secretary announced the following:

A. Announcement of Prohibition of Sound Producing Electronic Devices during the Meeting

Please be advised that the ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing of or use of a cell phone, pager, or other similar sound-producing electronic device.

B. Announcement of Time Allotment for Public Comments

Please be advised a member of the public has up to three minutes to make pertinent public comments on each agenda item unless the Port Commission adopts a shorter period on any item.

7. EXECUTIVE

A. Executive Director's Report:

- Schedule of Port Commission Meetings for 2012
- Cancellation of Regular Port Commission - January 10, 2012
- Special Port Commission Meeting - January 20, 2012

Monique Moyer, Executive Director - Thank you for the tremendous turnout today; it was very gratifying to see all of you here on such an important day in the Port's history. I would like to make sure that everyone has seen our calendar for the 2012 Port Commission meetings. We will be meeting as we always do, one meeting per month for January, June, July, August, November, and December, and two meetings per month in February, March, April, May, September and October. We do propose one change, which is that we cancel our regularly scheduled meeting on January 10 and reschedule a special meeting for January 20. There is no need to do an action item since this is consistent with the Port Commission's Bylaws, but I wanted to make sure that we got our calendar on the record.

Thank you, Commissioners, for having a special meeting today and for being here in this beautiful chamber room. It's a little bit different setup than we're used to, but it is quite an honor to be here.

8. CONSENT

- A. Request approval for Port of San Francisco Zone Schedule No. 1 containing Rules, Regulations, Rates and Charges for Foreign Trade Zone #3 and submission of the Amended Zone Schedule to the Foreign Trade Zone Board for review. (Resolution No. 11-73)
- B. Request approval of the Agreement by and between the City and County of San Francisco by and through its San Francisco Port Commission and Valero Refining Company-California granting Valero Refining exclusive authority to operate its site in Benicia as a Foreign Trade Zone #3 subzone for a term of 5 years, with 3 mutual options to extend for 5 years each. (Resolution No. 11-74)

ACTION: Commissioner Lazarus moved approval; Commissioner Crowley seconded the motion. All of the Commissioners were in favor. Resolution Nos. 11-73 and 11-74 were adopted.

9. PLANNING & DEVELOPMENT

- A. Request adoption of California Environmental Quality Act (CEQA) Findings and a Mitigation Monitoring and Reporting Program (MMRP) in connection with the authorization of construction contracts and associated approvals to implement the Pier 27 James R. Herman Cruise Terminal and Northeast Wharf Plaza (Project), located on The Embarcadero at Lombard Street. (Resolution No. 11-75)

Request approval of a Third Amended Memorandum of Understanding (MOU) with the San Francisco Department of Public Works (DPW) to increase the MOU funding from the existing amount not-to-exceed \$3,883,664 to a total amount not-to-exceed \$7,778,267, which amounts to an increase of \$3,894,603, for Phase 1 Project construction administration services and other services, and to extend the term from March 30, 2012 to April 1, 2013. (Resolution No. 11-76)

Request approval to amend the Architectural and Engineering contract with the joint venture of Kaplan, McLaughlin, Diaz Architects and Pfau Long Architecture to include services for Phase 1 construction administration, increase the amount of the contract from \$8,110,903 to an amount not-to-exceed \$8,888,292, which consists of an increase of \$777,389, and authorize a contingency funds of \$285,000 (approximately 3.2%) for unforeseen design and related services and to extend the term from March 30, 2012 to April 1, 2013. (Resolution No. 11-77)

Request approval to amend the Construction Manager/General Contractor contract with Turner Construction Company to increase the contract amount from \$9,989,251 to an amount not-to-exceed \$41,480,748, which consists of an increase of \$31,491,497, and to staff to increase the contract amount by \$3,927,676 (approximately 9.5%) through contract modification or change order, if needed for unanticipated contingencies to fund the Phase 1 Project

construction trade subcontractor packages, including shed demolition and the design-build shoreside power relocation. (Resolution No. 11-78)

Peter Dailey, Deputy Director of Maritime, indicated that this is a great day in the history of the Port of San Francisco, and it's great that the meeting is being held in the Board's chamber. For the Port Commission's consideration is a series of items whose passage will secure the Port's rich maritime legacy and begin a new chapter for San Francisco as a Port City.

The Pier 27 cruise terminal/ event space with its 2.5 acre plaza is one of the largest maritime infrastructure programs that the Port has ever undertaken. For nearly three decades, the Port has looked for ways to develop a new passenger terminal befitting a City like San Francisco. While past efforts were earnest, circumstances dictated that these three plans for cruise terminal developments never came to fruition. Port staff, understanding the economic benefits of this important industry, knew that another strategy would be needed if we were going to be successful.

Last year, it is estimated that the cruise industry brought nearly \$40 million in economic benefits to the region. The average economic contribution per vessel call was close to \$1 million. Not only does the cruise industry benefit the San Francisco's leading industry, tourism, it also directly benefits our other maritime industries such as longshore, tug and tow, Bar Pilots, ship suppliers. The cruise industry is also vital to the ports ship repair sector. With the 2008 drydock expansion, BAE SF is now capable of repairing the largest cruise ships afloat. In fact on January 7, 2012, the Carnival Spirit will be drydocking at Pier 70 for a two-week repair job, generating thousands of manhours of work.

In 2007 the Mayor formed a cruise terminal advisory panel that looked at the need for a new terminal and recommended that the Port develop a single berth primary cruise terminal at Pier 27 and that it implement a strategy to build this facility to meet all of the industry standards. These recommendations were accepted by the Port Commission who in turn directed Port staff to implement this initiative.

The Port entered into a Memorandum of Understanding with the City's Department of Public Works to help implement the Pier 27 cruise terminal project. In November 2009, the Port Commission authorized Port staff to execute a design contract with a joint team lead by Kaplan McLaughlin & Diaz Architecture and Pfau Long Architects in association with cruise terminal design consultant, Bermello Ajamil & Partners.

We commenced our efforts well before the possibility of hosting the America's Cup (AC) but tremendous opportunity of hosting the America Cup offered the Port a new avenue to kick start our cruise terminal plans. Through creative thinking, we've crafted together an innovative plan that allows the Port, with the Port's Commission's approval today, to commence demolition of Pier 27 and the subsequent construction of the core and shell of the new cruise terminal.

In 2013 the facilities will be used by the AC to serve as the "America's Cup Village" for the races. After the AC races are finished, phase two of the project will take place and the finishing touches, fenders, gangways, security apparatus will be added so that the facility can begin serving as the James R. Herman cruise terminal.

It would be short sided to call this just a cruise terminal, because the public benefits also include a 2.5 acre new open space as well as unique public access program. A major part of phase two of this project is completion of The Northeast Wharf Plaza that will provide a 2.5 acre open space at the western end of Pier 27. Pursuant to the planning policies and objectives in the Port and Bay Conservation and Development Commission's plans, the Northeast Wharf Plaza is being designed to serve as a major waterfront park resource to support recreational enjoyment and expansive public views of San Francisco Bay. The Northeast Wharf Plaza will provide a gathering area for passengers and the general public to view cruise ships when in port.

A third major benefit of this project is that when the terminal is not being used for cruise operations it will serve as a new waterfront event/meeting space for our important visitor industry. Our analysis and discussions with San Francisco Travel indicate that this meeting space has the potential to become a very popular special event venue able to generate real income to the Port. The new Pier 27 Cruise Terminal is to be named in honor of James R. Herman, former Port Commissioner and President of the International Longshore and Warehouse Union. He would be thrilled with the Port's largest investment to its maritime infrastructure in decades. Jimmy was elected to serve as International President of the International Longshore and Warehouse Union in 1977, succeeding Union founding father Harry Bridges. Indeed big shoes to fill but fill them he did.

The following is a description of Jimmy Herman, written by a local labor writer Dick Meister: *"Jimmy was a spellbinding orator and brilliant self-educated thinker and tactician. His fierce commitment to the ordinary people who did the work of the world, his outspoken contempt for those who exploited them, his compassion for the underprivileged, his absolute refusal to tolerate injustice was obvious to anyone within range of his exceptionally persuasive voice."*

While Jimmy served as President of the ILWU for 14 years, he also served as a member of the San Francisco Port Commission for 15 years. Many Port staffers may remember standing at the Port Commission podium with Jimmy staring at them with thick glasses with a point to make or a question to ask. He was fiercely protective of the Port's maritime mission. Naming the terminal after him should be a constant reminder of the Port's commitment to our maritime roots. This is truly a momentous occasion for the Port and the City. Having personally worked on the last three cruise terminal plans, Mr. Dailey indicated that he has a real sense of pride in bringing this to the Port Commission for consideration. He thanked the cruise terminal steering committee, cruise terminal environmental Committee, maritime commerce advisory committee, our cruise line partners, and

organized labor. He thanked the Port's internal team. The Planning and Development team headed by Byron Rhett, Diane Oshima, Project Manager John Doll; Design Guru Dan Hodapp; Kim von Blohn of Engineering and John Davey of Maritime. Our real estate division, the unsung heroes, assisted with tenant relocations and reshuffling. Susan Reynolds, Mark Lozovoy and property managers. Elaine Forbes and Megan Wallace who are printing the money for this project. He thanked Monique Moyer the Port's Executive Director for her vision, understanding and appreciation of the Port's role in the fabric of the City. Like any good Captain, she kept a firm hand on the wheel even in stormy weather and with the Port Commission's vote, will bring this project safely into berth.

Mr. Dailey indicated that Diane Oshima will discuss the entitlement and CEQA aspects of the project and Kim von Blohn will explain how and when the construction will take place.

Diane Oshima, Planning and Development Division, indicated that she will provide a brief presentation on the Final environmental impact report that was certified last night by the Planning Commission on a 5-0 vote.

On that basis, we have prepared and included in the Port Commission's packet the information in the CEQA documents, which we call the CEQA findings. The purpose of the CEQA findings for the Commission as the decision-makers for this project is to summarize the information in the EIR that is relevant to the project that's before the Commission for approval, to identify what that project is, what its impacts are on the environment, the mitigation measures that are required as part of the approval of this project, and a consideration of the alternatives that were analyzed in the final EIR and explanation of the reasons for rejecting those alternatives in favor of the project that is before the Commission today.

Then a final statement of overriding considerations because there are some significant impacts that were left over even after the mitigation measures that the Commission must override and explain what the benefits of the projects are that are the basis for that override.

The project itself, as Peter has indicated, has come along a very long journey. There have been refinements along the way, even since the draft EIR was published. In the comments and responses to the draft EIR, there were some refinements made to the cruise terminal project such that we call it the cruise terminal project variant.

Specifically, the changes that were made were some design refinements in the Northeast Wharf Plaza design itself, and for the cruise terminal component of the project we made some changes to the provisioning area at the tip of Pier 27-29 so that a portion of that tip area that is adjacent to the end of the Pier 29 shed would be left open for public access during non-cruise days. The original project had that entire tip closed off. Thus we call it the project variant, and there will be references to that in the CEQA findings. Essentially there are a number of changes beyond those two in terms of mitigation measures. There are a set of

new, much more robust air quality mitigation measures, which are the most significant for both this project and for the Americas Cup project to reduce emissions substantially during the construction period and to offset the downtime of the Pier 27 shoreside power facility.

We will be discussing it also in the America's Cup context, but in particular the mitigation measure that calls for the implementation of new shoreside power facility at Pier 70 drydock that will generate a net benefit to the regional air base, and that offsets the downtime for our cruise ships that come during the time that the shoreside power is down at Pier 27, and during the time of America's Cup.

There are still some significant unavoidable environmental effects that are disclosed in the final EIR, which are also included within the CEQA findings. They are cumulative traffic impacts at five different intersections along the Embarcadero to which the cruise terminal project would contribute. There are also projects and cumulative transit impacts on the F line for the additional number of passengers that we expect to attract at the new cruise terminal and there are cumulative noise impacts.

The mitigation measures that are in the Commission's packet address those impacts to the extent feasible, but there are still some residual impacts that are left over. The mitigation measures themselves are also packaged in a mitigation monitoring and reporting program that is the tabular document that is also included within the Commission's packet. It specifically itemizes each of the mitigation measures as they were presented in the final EIR, and then recites when they would be implemented and by what party, which is the Port and its contractors.

Finally the final EIR does look at two alternatives and studies them. The no project alternative, which is required in an EIR and the other alternative that was studied was the renovation of the existing Pier 27 shed. The findings include the reasons for rejecting those alternatives in favor of the project.

Resolution 11-75 is for the Commission's approval of the CEQA findings that would be the basis for then being able to consider the subsequent resolutions for the project approval.

Kim von Blohn, the Port Project Director, indicated that he will put the nuts and bolts into the program to make sure we can get into phase one construction. It's with great appreciation of the Port's waterfront stakeholders that Port staff requests Port Commission approval of the following three additional matters in addition to what Diane Oshima just presented. That is the funding and schedule extensions for Department of Public Works, funding and schedule extension for our design team, and funding increase for our phase one construction scope.

The costs for the phase one design and construction including the design of the phase two facilities is estimated to be about \$62 million, and will be funded by a combination of the waterfront condominium sales proceeds, previously issued

Port revenue bonds, future debt, a city contribution and other sources as noted in the memorandum.

In addition to Diane's request, Port staff's second request is to fund and extend the term of the San Francisco Department of Public Works, which has been providing architectural, mechanical, and engineering design as well as overall project management support services. Port staff requests approval of the third amendment of the memorandum of understanding with DPW to increase the funding from the existing amount of \$3,883,664 to a total amount not to exceed \$7,778,267 for phase one construction management services and to extend the term of the MOU until April 2013.

Our next request is to fund and extend the term of the agreement for our design consultant team. This team is a joint venture of Kaplan, McLaughlin, Diaz Architects, Pfau Long Architecture, and Bermello Ajamil. This team has completed phase one design and is in progress of completing the phase two design, which should be done about March of next year.

The LBE goal for the design team under contract is 15 percent, but the team has achieved a 44 percent LBE participation rate. Port staff requests an approval of a contract amendment with the design team to include services for phase one construction administration, to increase the amount of the contract from \$8,110,903 to an amount not to exceed \$8,888,292, and to extend the term to April 1, 2013, and furthermore authorize a contingency fund of \$285,000 for any unforeseen design and related services.

Finally Port staff requests to increase the funding for the remaining scope of phase one construction for Turner Construction Company or our construction manager general contractor. For Turner's subcontractor trade packages, local hire participation has been set at 20 percent with a goal of not less than 10 percent of project work hours to be performed by disadvantaged workers.

The local business enterprise goal for this work is 17 percent of the total value of the contract, except for work funded by Federal Emergency Management Agency (FEMA). We have a \$10 million grant for the project with FEMA for security work. This work under this grant must be procured under federal guidelines, which are somewhat different from city guidelines. In any case, the scopes of work for the FEMA grant will have a disadvantaged business enterprise goal of 25 percent.

Port staff requests approval of an amendment for the construction manager general contractor contract to increase the contract amount from \$9,989,251 to \$41,480,748 and to authorize staff to further increase the contract amount by \$3,927,676 through contract modification or change order if needed for unanticipated contingencies.

Our bids for steel for the project are due in this afternoon, and we're very anxious to see how they go.

Bobby Guillory - I want to emphasize that I am so happy that we are nearing beginning of construction on the James R. Herman Cruise Terminal. I was a member of the maritime commerce advisory committee and a member of the cruise terminal advisory committee, and I've been waiting a long time. This will allow San Francisco to showcase an entrance to this wonderful city with this beautiful cruise terminal. Port staff has done a tremendous amount of work. This is the fourth time around for the cruise terminal. I'm very hopeful that we can get it completed.

Sean Bennett, Bay Delta Maritime, a tugboat company in the bay - I'm speaking to support a yes vote for the terminal. We have been a company here in the bay for about 30 years, supporting the rich maritime history that the bay has. The terminal, a world-class terminal, will represent the Port well. It'll represent our tourist industry well. Cruising is becoming more and more an avenue of tourism as it grows. Our city has always enjoyed a lot of revenue from tourism and a lot of respect around the world as people have come and visited our city. The terminal we have now doesn't reflect the real San Francisco. People see and come through that gateway, an improved terminal would go a long way to facilitate that. For us, we're a smaller company. We employ roughly 30 people, all bay area citizens. More ships coming to the bay certainly helps us.

Dennis Deisinger, business development director for BAE Systems Ship Repair – General Manager Hugh Vanderspek, would like to be here addressing the Commission but right now he's hosting about 300 of our employees in the yard at our annual Christmas party, along with their families. I also understand that with the current volume of ships that call in San Francisco that actually employs about 300 full-time people as well, not counting all the ancillary tourist-plus. I believe that the new cruise terminal will definitely bring more jobs, more ships, and more opportunity for us here in San Francisco. We wholeheartedly support the construction of the new terminal. As a business development manager I'm always in front of these cruise ship operators touting the benefits of San Francisco and the benefits of our yard. We've been investing in the yard; the Port has been investing in our yard. Through that investment, as Peter said, we have the capability to lift some of the largest cruise ships that call on the West Coast. In fact, the Carnival Splendor, which caught on fire down in San Diego earlier this year, if we hadn't done those upgrades with the Port, that ship could not have been repaired here on the West Coast. With these upgrades for 2012, we have three cruise ships booked. As Peter said, the Carnival Splendor will be coming next month but not for 14 days, only for 11. We still have 35,000 man-hours to complete in that time. The Carnival Splendor carries 3,000 passengers. The current terminal cannot handle that throughput. The cruise lines are only going to go to the terminals that can handle the throughput, can handle their ships efficiently and safely. The current terminal we're at a disadvantage to San Diego. We're at a disadvantage to L.A. and Seattle. We all know that more ships will bring more jobs, more dollars. On behalf of BAE, we support the cruise terminal.

John Cinderey, business director for the San Francisco Bar Pilots - Captain Horton would be here today, but he's doing some reserve duty with the Navy. I

just want to take a few minutes to say how much we support this project. The San Francisco Bar Pilots have been in existence here in the bay since 1850. I appreciated the history that Peter shared with us, how long this has been coming down the pike. I guess this is the last lap, we hope. Let's put this through. It was nice to see that the team that's been behind this project. We want to acknowledge the hard work that Monique and all the people have done and we support this.

Jim Lazarus, San Francisco Chamber of Commerce - For full disclosure, I'm related by marriage to one of your commissioners. I'm here at the request of Stephen Falk, the president of the chamber, who served on your cruise terminal advisory committee, to support this project, to urge you to make the appropriate findings and approve the contracts for this. In fact, I think this project moved forward because of the other items on your calendar today related to the America's Cup 34. Few events and few projects, I think, have had as much citizen involvement and review as the projects before you today, both at the city level through citizen committees, through this commission, through the Planning Commission, through State Agencies and for the America's Cup, federal agencies as well -- EIR and EIS reviews, and the actions before you. Yesterday's certification by the Planning Commission of the EIR -- unanimous, which in and of itself is a surprise sometimes out of that commission, that you got a unanimous vote -- certainly indicates a broad level of support for the cruise terminal project and the America's Cup. The chamber urges this commission to take all appropriate actions on all facets to move all these projects forward as quickly as possible.

Jim Chapell, representing SPUR, the San Francisco Planning and Urban Research Association - I am here to support the adoption of the CEQA findings and the mitigation and monitoring and reporting program for both the cruise ship terminal and the America's Cup. With your permission, I will testify just once for these two items, which are separately listed as 9A and 9B on your agenda. I actually have read the environmental impact report. Not every word, certainly; this is the longest such document I have ever reviewed, and been associated with. I have read it enough to know that these are very good projects, that the analysis has been very detailed, and I believe the anticipated impacts and proposed mitigations are realistic and appropriate. The America's Cup will finally get us the new cruise ship terminal and bring other both physical and financial benefits to both the Port and the city as a whole. Please adopt these findings and programs today.

Norman Pearce - I am speaking on behalf of the citizens of San Francisco that I am communicating with, with regard to maritime recreation. The cruise terminal and the operation and the merger of the America's Cup event to improve this pier to service a broader range of maritime facilities that includes recreation is very important to us citizens. It is so important that I formed a little club called Fog City Yacht Club. It is in the cloud. It is open to any member that wants to get out into the water and experience the recreation. This cruise terminal and the America's Cup, is going to be able to facilitate the general, broad-based citizenship to be

able to get access to the water and experience our great place of recreation on the water.

Catharine Hooper - I am speaking on behalf of the passenger cruise industry, having served as a Port agent for many, many years in this port. Going back to what Mr. Guillory said I, too, in 2000 and earlier served on an array of committees to bring our new passenger terminal. One of the things I remember saying at one of the meetings was I certainly hope this happens in my lifetime. It has been going on for quite a number of years, and I think we are finally there. As somebody who has been involved in the passenger cruise industry all of my very passionate and happy career, I can tell you unequivocally that when as a marketer in the passenger cruise industry for 25 years before becoming an agent we would do market research to find out from potential passengers where they would like to cruise. San Francisco always comes up high. Having had the privilege of traveling on passenger ships in line with my former career I had the privilege of coming to many, many ports in the world. We are one of the most beautiful natural harbors in the world, up there with Sydney, Australia, Vancouver, Hong Kong and San Francisco. As you come into all of these ports and go to these fabulous terminals, and then you come to ours -- and meaning no disrespect to the Port, because God knows they have tried to enhance as best they could with what we have to work with -- I think you would wince. You probably have been down to our terminal to watch when we have a full ship turn around, to see what a great thing that we have done with our 1920s passenger terminal. It is time. We need this terminal.

My second hat that I'm wearing today is that of the operations director for San Francisco's annual Fleet Week. You might say, "What does that have to do with a passenger terminal?" It has everything to do with a passenger terminal. When we bring these magnificent, glorious, active Naval war vessels into our fabulous Port, where we treat our men and women of the sea services so well, as an agent for these ships what I have to do to go through and the Port has to deal with to accommodate their needs -- which are not all that much different than a passenger ship -- is daunting. One of the great legacies that we look forward to enjoying after America's Cup leaves is the legacy of having a fabulous passenger terminal as well as a terminal for visiting large vessels, including our Fleet Week ships. In closing, I urge you to pass it. We were remarkably happy last week with the five-zero vote, and we look forward to that today. Please do it in my lifetime.

Veronica Sanchez - I am speaking for myself and probably as I had the privilege of being the adopted goddaughter of Jimmy Herman in the last years of his life, I had a very personal relationship with him that I was privileged to have. One of the things I wanted to share with you is that people have been talking about a lifetime, and the years that they have been trying to bring a new cruise terminal to our Port. It is appropriate that you are taking this vote today at City Hall, because I remember 22 years ago as a then-young staffer for Mayor Agnos one of the first projects that I worked on was a project to develop the Scandinavian Center at Pier 30-32, a cruise terminal. That was the first iteration of a cruise terminal that I was exposed to. I worked on it actually with Commissioner Woo Ho's husband,

Deputy Mayor James Ho at the time. That project did not come to fruition. The lend-lease cruise terminal did not come to fruition. I am really pleased that we are so close to finally getting this new cruise terminal. It is appropriate that it has Mr. Herman's name to it. A lot of people do not know that even though he really spent most of his lifetime trying to bring cargo ships to San Francisco Bay area and throughout the West Coast. The last years of his life he actually focused on cruise ships because he understood the transition and the changes that were occurring at this Port, and that although container ships would not necessarily come here because of the impediments of the railroad, that indeed we could be a cruise niche and he actually spent a lot of time even advocating for changes to the Passenger Services Act, a federal legislation that to this day impedes this port from maximizing on cruise opportunities. I was certainly thankful for this moment, and this opportunity. As final comment I would add that certainly we hope that this cruise terminal truly reflects Jimmy Herman's spirit and his passion, which was to make sure that maritime facilities provided jobs for his dear union, the ILWU, and that we do not take shortcuts or cut costs or corners and put ILWU jobs at risk.

Jason Santana - I am a member of ILWU Local 75. Since 1939 we have been a charter local of ILWU. We guard the marine terminals in Oakland and the Port of San Francisco. At the Port of San Francisco, we guard Pier 35 cruise terminal, Piers 27 through 29 when in use, and Piers 30-32 when the ships call. We have roughly 200 members, 25 percent of which are women, 43 percent African American. The new cruise terminal is about job preservation. We need a more efficient, modern cruise terminal so the cruise lines can continue calling at our port. Otherwise, these ships will just bypass our city even if it is one of the most beautiful cruise ports in the world. Although we are unhappy about some loss of jobs at Pier 27 through 29 cruise terminal, the Port has assured us that we will be able to discuss ways to get the most amount of jobs inside and outside of the terminal. We are willing to take them at their word for this, but the most important thing now is to get the contracts out, to get this terminal built.

Michael Villeggiante - I am the vice president of the ILWU Local 10 at the present time. I soon will be the president of Local 10. I am here to announce to you that the ILWU Local 10 is looking forward to continuing to do work on these docks. Through the America's Cup and the new cruise ship terminal we are there to move cargo, and we want to make sure that this commission is aware of our jurisdiction. We understand all the subcontractors and those types of things, but we are for sure going to do the work on the docks. I am very pleased that this is happening. I am a second-generation longshoreman. My family has been working on these docks since the early 1940's. This is an exciting thing for us, because it is showcasing San Francisco as one of the premier cities in the world, not just in the United States. By this cruise ship terminal happening, due to the America's Cup helping out with the financial part of it, it is a wonderful thing to go forward. Having it named after Jimmy Herman -- and what Jimmy Herman stood for was representing the working class -- we have many members, and we represent the locals throughout the Bay Area. My local is Local 10; Local 34 is the clerks. Local 75 are the guards, and also Local 91 are the bosses. We have

done work throughout the history of the docks for the last hundred years. Even though at that time it was not the ILWU, but it is the same working-class people. You mentioned about not using substandard labor to do the work for the America's Cup, and I am letting you all know we are paying attention, and we are there to do it. The last thing I would like to say, we were talking about the roots of this city -- the great history of this city -- with labor. The International Longshoremen's Warehouse Union is not giving up jurisdiction. I just want to make that point, and it is an exciting thing for us and we are looking forward to working together with the America's Cup and the Port Commission to do whatever you need to happen to make this project a smooth transition throughout the process.

Peter Olney - I am the organizing director of the International Longshore and Warehouse Union. Brother Villeggiante has articulated our needs and our perspective on both the cruise terminal and the America's Cup. We appeared last night at the Planning Commission meeting. We supported the certification of the EIR for the America's Cup. We, however, did raise some of our concerns around social equity, which are the issues of good jobs and good union wages with good benefits and working conditions. I would reiterate that concern again, and I'm very happy about the assurances we have from Port staff about a sit-down in the new year to talk about those issues, and also we have assurances from Mr. Bob Billingham, who is an infrastructure manager for the event's sponsor, that we are going to sit down with him and deal with some of these issues around waterfront work, particularly the operation of cranes. Those are discussions that we look forward to, and we look forward to appearing again before the Port Commission in January to assess where we are on these social equity issues. Thank you very much for your consideration of our concerns, and what a great day it is for the Port of San Francisco.

Jennifer Clary - I am the president of San Francisco Tomorrow. I have spent about 10 months working with Port staff. Unfortunately, we were not able to come to agreement on all the issues in the EIR or the MMRP, and so an appeal of the certification has been filed this morning. Under Administrative Code 31.16, no further action can be taken on this matter until it is reheard by the Board of Supervisors. Since they are scheduled to hear it in late January, I am very hopeful we can take care of our issues before that time and not delay the project.

Paul Oliva - I am speaking as an individual but also with reference to my work as the San Francisco Chronicle's waterfront columnist, a consultant to the Bay Area Council and longtime sailor and member of South Beach Yacht Club. I simply urge the commission, notwithstanding the prior witness, to take immediate action and move forward all of the items under agenda item 9A, because of the ability to expand the vitality and economic viability of our waterfront.

Commissioner Lazarus - This is a question for Kim, and it sounds like you might actually know the answer better this afternoon after you get the steel bids. It does talk on the report about having precise budget numbers to resolve unanticipated increases. Do you have any sense of the construction market now, and whether it

has tightened up or whether it is possible that some of these bids may still come in lower than budgeted?

Kim von Blohn - It is my opinion that we are still in an excellent market. Although Turner, who has provided our latest cost estimates, has taken into consideration that we are in a very good market, but we are going to find out very soon how good it is.

Commissioner Woo Ho - I have a question on the Watermark Condominium sales proceeds. That is an estimate, obviously. What is the plus or minus that is associated with that? Given Commissioner Lazarus' question, that cost could still be moving.

Elaine Forbes - The Watermark Condominium sales proceeds are actual cash from the sale of that condominium, back in 2003. The interest earnings are accrual to date. That transaction occurred many years ago, and are actuals.

Commissioner Katz - I know it is hard to project phase two cost estimates, but do we have any sense, percentage-wise, what we would look at given our anticipation of having one use for the phase one and then putting in some of the homeland security issues and other things for phase two? Percentage-wise, what does that look like, and what's the potential funding for that?

Kim von Blohn - We have a \$10 million FEMA security grant. Most of that expenditure will be in phase two. That matches our security needs in phase two. Approximately \$8,500,000 will be going into the phase two security systems. The other major funding for that work will be a future bond for the park itself. We have been doing value engineering as the design has progressed, and we are just now finishing the design. We are going to BCDC on January 9, 2012 to reconcile their requirements for our park. I would like to report back to you at our January meeting when we have the park finished or the design almost finished, and we will have a new cost estimate by then.

Commissioner Katz- I didn't want to hold you to any specifics. Have we contemplated if there are any significant delays, the impact if it is not completed in time for use by the America's Cup event authority?

Kim von Blohn - That's a good question. I think really it's for the event authority to answer that question. We have assumed confidently that it is a one-year construction program. There are ways if necessary we could improve that slightly, but it is a pretty complex project to bring in much shorter than one year time. If there is a problem getting the approvals to start, then obviously that is beyond our control.

Commissioner Katz - It sounds like there is enough additional time under sort of a worst-case scenario if there are delays that would address that.

Jonathan Stern - I am from the Port development staff and we are working on the transaction documents for the America's Cup. In the development agreement for the America's Cup there are a series of procedures to assure that we are coordinating and that they are fully apprised of our schedule on the cruise terminal. They do have some rights under the transaction documents we will bring to you for your consideration later in this meeting that would allow them at a certain point to step in, and if it is a matter of money, invest with a return in the cruise terminal or by May 1 tell us to secure the development site so that the America's Cup events could occur around an unfinished cruise terminal building. There are some provisions that they insisted on, because even though we have full confidence in our team -- Turner and our construction team -- to get it done on time, they were rightfully concerned about what happens in those eventualities.

Commissioner Katz - It looks like it is a little bit of a tight construction schedule, knowing delays that often occur. then I am not sure who would answer the last two questions I have. One of the issues raised as not necessarily full mitigation would be the wind impact. Have we modeled any changes in wind, having sort of suffered the effects of working in some of the downtown corridors where they become wind tunnels? Have we looked to make sure that everything will be sited not to create any unnecessary or unintended consequences?

Kim von Blohn - We haven't actually studied as a project exercise the wind elements out there. We are removing a substantial structure that in some cases blocks the wind, but on the other hand there still is wind coverage from Telegraph Hill. To answer your question, that has not been a design element.

Commissioner Katz - Probably sort of a net-zero because there is already a structure there that would effectively have the same impact as something new. Finally, have we been working with the MTA to come up with some solutions on some of the sporadic impact on the transit systems such as the F Line and things like that? It seems that maybe this is sort of common sense but there is with scheduling coming up with ways that we would advise them in advance when there might be increased need or use for the F Line.

Diane Oshima - Could you repeat that question?

Commissioner Katz - Just addressing some of the work that we may have done as we have anticipated some issues with the MTA. For example, there were some concerns raised about the impact on the F Line, as one of the earlier speakers mentioned we have been quite good about reaching out and agreeing to hold various meetings. I would assume that we will be doing something with the MTA to apprise them of that.

Diane Oshima - Absolutely. There is a mitigation measure included in the EIR to address that, which is in fact predicated on that. The wind impacts were studied in the EIR. There was a preliminary conceptual modeling that was done, but what we did not have any public access or design improvements that were put into that wind impact analysis. They took a blank slate and made some general

projections about what kind of wind conditions that we would have, and then called forth the fact that there would be signage and improvements that would provide sheltered areas. In fact it is more in the context of the BCDC design work that we are doing now with BCDC to talk about what kinds of studies should be in our future to come up with design improvements for the public access area at the tip.

Executive Director Monique Moyer - I would just add that independently the MTA has had at least one and possibly more hearings to look at service in the northern waterfront and beyond. It is very much on their radar screen.

Commissioner Katz - In legal parlance that is what we call a leading question.

Executive Director Monique Moyer – Yes, thank you. I would also add that the mitigations for the Exploratorium project also include transportation improvement.

Commissioner Katz - The last are just comments. One, I just appreciated one of the earlier speakers who acknowledge Port staff's willingness to sit down and address concerns going forward. I think that is something I certainly appreciate that our staff has done, and I know will continue to do. I want to thank staff for all of the incredibly hard work that has gone into this in such a shortened timeframe. Lastly having met Jimmy Herman, who really was a force of nature, I am thrilled that the cruise ship terminal will be named in his honor.

Commissioner Lazarus - There is an expression that some people like to use, "If you want a job done right, do it yourself." I think that assumes that you have the skill set to do that, and so I would like to observe as well that clearly the Executive Director Moyer has assembled the A Team here at the Port to get this to where we are today. Again, I add my thanks and my commendation to everybody. The decision to try to do it ourselves and in conjunction with fellow city departments was clearly the right one. So onwards and upwards.

Commissioner Katz - I think we should all ditto that statement.

Commissioner Brandon - We have heard a lot of public comment, most of it supporting the cruise ship terminal. I would like to defer to our legal counsel on the last comment that was made and just to let us know that it is okay to move forward or not.

Robert Bryan - We do believe it is appropriate to move forward, and at this point in time there has not been a properly filed appeal that would hinder us in that regard.

Commissioner Brandon - I had the pleasure of serving on the Commission with Commissioner Jimmy Herman, and he was just such a wonderful person. To ditto some of the public comments, this is a great day in Port history in that we are finally, I hope, putting a shovel in the ground and building a new cruise terminal. This is my second opportunity on building a new cruise terminal, but I feel really

good about this one. I want to echo my fellow commissioners in applauding Director Moyer and the staff for bringing this item to us in such a short period of time, and it is a great item.

Commissioner Brandon requested a short recess.

ACTION: Commissioner Lazarus moved approval; Commissioner Crowley seconded the motion. All of the Commissioners were in favor. Resolution Nos. 11-75, 11-76, 11-77 and 11-78 were adopted.

- B. Request adoption of California Environmental Quality Act (CEQA) Findings and a Mitigation Monitoring and Reporting Program (MMRP) in connection with approval of Disposition Agreement for the 34th America's Cup project (the "Project"), involving use of Piers 26, 28, 30-32, 9, 19, 19½, 23, 27-29, and 29½ and adjacent water areas; water basins between Piers 32 and 38 and Piers 14 and 22½, all located along The Embarcadero waterfront; Seawall Lot 330; and a portion of Pier 80, located along the north side of Islais Creek, east of Illinois Street (each, a "Venue"). (Resolution 11-79)

Request approval of Development and Disposition Agreement, and related actions to implement the 34th America's Cup Project, involving use of Piers 26, 28, 30-32, 9, 19, 19½, 23, 27-29, and 29½ and adjacent water areas; water basins between Piers 32 and 38 and Piers 14 and 22½, all located along The Embarcadero waterfront; Seawall Lot 330; and a portion of Pier 80, located along the north side of Islais Creek, east of Illinois Street. (Resolution 11-80)

Brad Benson – I am the Special Projects Manager representing the very large Port and city team who has been working on this project for the past year. We are very grateful to be here today after a lot of long nights. It really has been an amazing experience, including last night's experience at the Planning Commission for the certification of the EIR. The work that planning staff did on that environmental impact report was truly incredible. We are here today to present to you CEQA findings and a mitigation monitoring and reporting program related to the America's Cup project, as well as the proposed disposition and development agreement related to the project. We will have a number of speakers who will be addressing you today, and a PowerPoint presentation that is fairly lengthy, but includes some late-breaking changes that the mayor just announced with Mr. Stephen Barclay from the event authority. There is a lot to digest today, but we hope to walk through all of it.

I'd like to start by introducing the America's Cup project director from the Office of Economic and Workforce Development, Mr. Mike Martin.

Mike Martin - As Brad mentioned, I am very excited to be here before you to give you a bit of an overview of the America's Cup events and the planning we have been doing. First I just want to also thank all the hard work from your staff here at the Port of San Francisco. It has really been an enjoyable professional

experience over the past year to learn how the Port works and to see all of the great work that has gone into it.

I would also again thank our partners at the America's Cup Event Authority and the America's Cup Race Management Organization that together we're building a better project with the help of the community engagement that has been so robust. We hope to continue that work with the actions ahead of you, as well as going forward to actually implementing the events.

I am going to give a project overview today, talking about the events themselves, what they are going to be, the sort of working relationships that have been formed as well as some of the ways we are both publicizing and refining our strategies to bring the events here in what everybody continues to call the San Francisco Way -- which means different things to different people, but I think all of it means bringing forward a set of events that are environmentally responsible, that bring in economic benefits, and that really highlight the social and cultural specialness of San Francisco. That is something we are excited about. From there I will move on to the environmental review process under the California Environmental Quality Act, or CEQA. We will discuss the disposition and development agreement, the scope of work approvals, the financial and economic analysis of the proposed actions before you, as well as the policy analysis and recommendations.

I wanted to run through a few of the entities I just mentioned. The America's Cup host and venue agreement that was signed at the end of last year had three parties: the city, which also includes the Port of San Francisco; the America's Cup Event Authority, which is the project sponsor; and the America's Cup Organizing Committee, the locally formed nonprofit public benefit corporation that is charged with fundraising up to \$32 million to defray the public cost of the events and is also serving as a helpful convener on a lot of our community engagement around the community benefits that these events will bring to San Francisco.

The other entity listed is the America's Cup Race Management Organization. They are primarily responsible for the on-water event management, but they are also going to be overseeing event logistics on land as well. We have been in close coordination with them and their sister agency at the event authority.

A quick run through the upcoming schedule. As I am sure you have heard in the past, including at our informational presentation a few months ago, this America's Cup is somewhat unique in that it is being preceded by the America's Cup World Series, which is a world tour of the same teams that are proposing to enter the America's Cup events in 2013. That world tour will hit up to 16 cities over the course of this year and next year, leading up to early 2013.

As you will see on this slide, there is a first leg of the World Series that concludes in June of 2012. The second leg of the America's Cup World Series commences in August 2012, and right now is planned for two regattas here in San Francisco.

These would use the smaller 45-foot boats rather than the 72-foot vessels. But that is really a great place, and we are looking at that as an opportunity not only to sort of experience the excitement of the America's Cup events but to start testing out some of our implementation strategies to understand what it is going to take to put on this level of event along our waterfront in a way that is not only sensitive to community concerns but also to the environment. It also does it in a frankly efficient way, so that we can use the resources we do have most efficiently when we have a longer duration set of events in 2013.

Moving from there to 2013 we will start the America's Cup events starting with the opening ceremonies on July 4 and running through July and August with the Louis Vuitton Cup America's Cup Challenger Series. That will be a mixed round robin format where all of the challenging syndicates will face off to see who earns the right to be the challenger that faces the defender, Oracle Racing, in the America's Cup Final.

The America's Cup Final is currently scheduled for September 7 through 22. That is a best five of nine match races, so it will be up to nine racing days during that September. Obviously that will be the culmination of the most international and local attention on the events. Obviously we are excited that that is going to be at what is a beautiful time of year here and will be a very exciting step forward.

Commissioner Woo Ho - Can you tell us how many teams at this point? Is that still not finalized?

Mike Martin - It is not finalized. I believe at the current time there are 10 teams. There has been a recent entry, so it is either nine or 10. We just went down to San Diego for the America's Cup World Series event to see it down there. A new team has been added since then, so that is part of my confusion.

This is a diagram showing the vessels. To the left is the quote-unquote smaller vessel, the AC 45. I say quote-unquote because if you see them sort of gliding by you it is still a pretty large thing on the water. Looking at the comparison between that and the 72-foot vessels which are currently under construction and we will be seeing in 2013, you can see that it is even larger, even faster, taller, wider. It is just going to be a very exciting thing to see these huge, fantastic machines being moved so quickly across the bay.

I wanted to put up this slide to show some of the refinements that we have been working on with our regulatory partners as well as the refinements that are shown up in the final EIR. Originally what we proposed in the EIR was a larger course area, the place in which the actual racecourse would be laid out. It actually extended basically all of what you see here plus northward towards Richardson Bay and Angel Island.

As the America's Cup Event Authority and America's Cup Race Management have learned more about the performance capabilities of the boats, and sort of the kinds and duration of races they want to see through their work at the

America's Cup World Series events, they have realized that they can use a smaller area. This has helped us in our work with the U.S. Coast Guard to work on how vessel traffic is going to work during the events.

The blue lines here are the deep water shipping lanes that will be kept open throughout the events, so that is a consideration that we have had in front of us the whole time, is that we cannot shut down what is such a large and working port with the whole Bay Area. We are trying to do what we can to sort of manage conflicts between different users of the bay, including ferries, the deep-water traffic, and recreational users.

This smaller or race area closer to the south is where the Coast Guard would say that they would be able to control traffic, much like they do with the Fleet Week safety box but also allowing areas for traffic to sort of proceed in and out in a way that hopefully allows for the events to proceed safely but also allows for other things to happen as they will on these weekends during the fall of 2013.

I am going to take a quick step through to talk about our implementation plans. A number of these were called for under the host and venue agreement, and also we have continued to look at the sort of overall implementation planning process, and so we have added a few of these plans as well during our work in developing our strategies. Basically these plans all help us in laying out in greater detail how we plan to bring the events forward on a range of issues. As you can see, it includes advertising and ambush marketing, so our relationships with the event authority are obviously front and center there. Parks event operations, the people plan, the sustainability plan, the water and air traffic plan, and team-based operations are all plans that focus on a lot of the ways we are trying to safeguard the environment and make sure that the events are carried off safely and effectively.

Then we have things like the public safety plan, for obvious reasons, a vital part of this internationally significant event. Then moving on to the workforce development and youth involvement plans, which are plans being put forward by the event authority to show their commitment to the things set forward in the host and venue agreement.

The zero-waste plan, originally known as the waste management plan, we have published a revision to that to focus on the Port venues and obviously it will be something that we take very seriously as part of managing the environmental impacts of the events.

Diane Oshima - Similar to the briefing that I just provided you on the cruise terminal project, we have CEQA findings that need to be adopted as well for the project to be approved for America's Cup as well. There are revisions to the findings that were included in your package because of the announcements that have just been made today. I am going to run through what the highlights are of those changes, and at the end of this PowerPoint presentation we can take you

through the specific changes in the findings. It will be a little tedious but we need to make sure that we do that for the record.

As we have been acknowledging in a number of the prior comments, the final EIR was certified last night by the Planning Commission. On a personal note, I would like to acknowledge my teammates with the Planning Department, who are here today representing the EIR team. This was a monumental undertaking, and I would like to acknowledge those people sitting in the second row: Chris Kern, who has been working with the Port as well as the Planning Department; Joy Navarrete, who was the EIR coordinator for the environmental planning unit in the Planning Department; Gary Oates, the CEO for ESA Associates, who personally was and still is charging through the environmental review requirements for the project; Joyce Hsiao of Orion Associates, who joint partnered with ESA; and Paul Mitchell, who is with ESA, which were this come-from-Mars project management team that deserves an enormous amount of credit.

With the certification of the EIR, it could be appealed. There is a 20-day appeal period, and if we get one that would be processed through the Board of Supervisors prior to their actions.

As I mentioned, there have been project changes. Some of them were already recognized in the final EIR and were documented in the comments and responses document. Then layered on top of that are changes that have taken place in the project since we published the staff report. With respect to those that were covered in the EIR already, those were related to changes and refinements in the scheduling for the race events themselves.

There were a number of improvements and refinements that the event authority and race management were able to make on their own in terms of their operations, having learned from all of these World Series events. They have made a green commitment to buy the tier four highest efficiency engines for their boats, and that yielded adjustments in the environmental impact analysis from what had been published in the draft EIR before.

As you know, we have gotten hundreds of comments from the public and the dialogue that Mike Martin and his team have been leading with regard to all the implementation plans and the comments that have come in from the various advisory committees and commissions, all yielded either comments on the draft EIR or comments coming through other doors of the America's Cup effort that have refined the project further.

Likewise, the outreach that the city is doing with its counterparts in Marin County and San Mateo County also have yielded some adjustments in these projects that are articulated in the final EIR and were called out in the project variant, which was described in detail in Chapter 11 of the comments and responses document. We tried to get our arms around it as best as we could then and then it just got better. The process has been very rigorous. It has been open, and it

has been fluid. We have been trying to track those changes as best we can along the way.

Just to highlight more of the specifics, reduced construction in addition to the event authority and the race management committing to highest efficiency equipment. They've scaled down the amount of construction required for the events, which reduces environmental impacts. As was just announced by the mayor a few minutes ago, there has been a big change in the view basin impacts that were articulated in the EIR by the removal of the long term marina in the Rincon open water basin and shifting that to a location in Mission Bay. That was in response to a lot of public comments, but in particular the policy concerns of our partner agency, BCDC.

There have been changes in the jumbo screen that was proposed for the aquatic park to accommodate the joint uses by swimmers and recreational water users and kayakers. In response to a number of the comments about the traffic concerns on the Embarcadero by the proposed closure of all three northbound lanes in the Embarcadero, which had been initially described as part of the people plan, the people plan is scaled back and they have found a way to be able to manage the transportation demand while still keeping lanes of traffic open and keeping our Port businesses able to maintain their activities.

As was mentioned in the cruise terminal briefing, there are significant new air quality mitigation measures that are included in this EIR. Specifically, with respect to the shoreside power mitigation measure for Pier 70, not only does that provide a total net new electrical shoreside facility that takes the diesel emissions offline, but the construction of that facility would start in 2012. We are going to be seeing some immediate benefits from that that offset the emissions impacts of having the Pier 27 shoreside facility closed down.

There is also a mitigation measure included in the new changes that accelerate the return of the Pier 27 to the Port for the cruise terminal operations also, so that we can get the cruise terminal shoreside power facility back online for the 2014 season. There we are also offsetting some of the emissions that were otherwise assumed in the EIR.

All in all, it has been a very happy collaboration with BAE, with the PUC, who has a role in helping us to connect to the city's power grid and the event authority as well as the city.

As it was mentioned previously, the CEQA findings are here to describe the project that we are recommending for your approval. It has a recitation of all the impacts and the mitigation measures, and refers to a mitigation monitoring and reporting program. It identifies the various alternatives that are in the final EIR that are rejected in whole or in part, and the reasons for those rejections. The overriding considerations for approving this project even though there are still some outstanding significant environmental impacts.

With regard to the program of the project that's before you, chapter 11 in the EIR, the project variant had scaled down construction for the events. There was a reduced development sub-alternative that was also included within chapter 11, which talked about reduced number of long-term development sites and the elimination of the long-term marina in the Rincon point open water basin.

There was also an alternative in the EIR for a reduced spectator berthing program, which also covered the elimination of long-term marina development in the Rincon Point open water basin. So the project now that we have proposed to you for approval is sort of a blend of different components that come from that. Essentially from an environmental impact perspective is closest to the reduced development sub-alternative that is described in chapter 11. With that, we have all of the venue events that have been described for 2012 and 2013 as planned and as was summarized for you by Mike Martin.

The long-term development program would not include Pier 19, 19½, and 23. It would include Pier 30-32, Seawall Lot 330, Pier 26, 28, and 29. This project before you has a revised marina program for both the short term, the temporary period during the events, as well as the long term. For the temporary berthing for the events in 2013, there would still be some limited berthing within the Rincon open water basin at the northern end outside of the view basin adjacent to the Rincon Park. The berthing would be north and south of the Pier 14 public access pier. There would be berthing within the Brannan Street Wharf open water basin between Pier 32 and 36. That would be for the events.

For the long-term marina development rights, there would be none in the Rincon open water basin. There would be a scaled down provision for berthing in the Brannan Street Wharf open water basin, just around Pier 30-32, more to the northern end to free up the bay views from the Brannan Street Wharf project that is now under construction. The provision for long-term marina development rights down at that Pier 54 Mission Bay waterfront area that was just announced by the event authority and the race management and the mayor's office.

In all, that pretty much paralleled by what is from an environmental impact analysis perspective represented in the reduced developments of alternative in chapter 11, which is one of the two environmentally superior alternatives that was identified in this final EIR. Through all of the work with the community and the event authority, we have come to a point where this is a project that has upheld a very high standard of environmental sustainability.

Given those changes, there are a number of edits and revisions that I have to walk you through after this presentation. Then in terms of the mitigation measures themselves, those actually do not change. The mitigation monitoring reporting program that's in your package now that was posted on the Web site, all of those measures would still ride with this revised project. The only thing that changes is the title block on the first page. It refers to a project variant; we're going to be just changing it to the AC 34 Project. That is the only thing that changes on that.

Jonathan Stern, Planning and Development - It is my privilege to try to negotiate very quickly a set of agreements that match all of the project that was described by Mike and the environmental consequences that Diane just talked about. I am going to walk you through the approval process. The approvals that are before you today describe the major documents that are in play, and then talk about future approvals that these transaction documents will need for them to become effective.

As Diane mentioned, we are here to ask for your consideration and approval for CEQA findings and the mitigation and monitoring program for the EIR that was just completed and certified last night. We are going to seek your approval for a development and disposition agreement, a DDA, for the America's Cup venues, and then I am going to spend most of my time talking about the DDA and then a form of lease. I will describe briefly a form of lease that is not yet completed that is based on the Port's standard lease form. Given the complexity of this project, finishing both the DDA and the lease did not happen by now. We will bring it back to your approval at a later meeting.

There will also be a transfer agreement that we will bring back to you later for Seawall Lot 330, subject to the host and venue agreement and subject to AB-418, which is a state law that was signed into law by Governor Brown pertaining to transferring this lot because of the America's Cup.

There will also be approvals later in this meeting for a tenant relocation plan, and there will be a resolution for establishing an infrastructure financing district, which is also a requirement of the host and venue agreement. There will be some construction items related to work at Pier 27 and the cruise terminal.

To talk briefly about what will ultimately happen, which is venue leases, these are short-term leases starting in 2012, or starting on a schedule that I am showing on this slide; most in 2012, some a little bit later depending on the site along the San Francisco waterfront and the Port. They will be the mechanism for the event authority to control these properties and do construction on the appropriate properties where construction is needed. I will talk about that briefly in this discussion, and Brad Benson will talk about it in the scopes of work approval following me.

These are the venue sites shown on a map. They range from the north of Pier 29 and 27 and ancillary facilities in 19-23; a number of water venues along the northern and central waterfront; and then a number of properties around Piers 30-32 including Seawall Lot 330, 26 and 28. They will be used for the team industrial bases.

The DDA, which is the main subject of the transaction approvals we are bringing you today, has four primary purposes. It is the overall document that governs the authority's obligations to improve Port property. It governs the construction process, including the Port's review and approval of scopes of work, especially subsequent scopes of work and major amendments to scopes of work.

It governs the condition of delivering these venues, makes sure that all the proper conditions are being completed and the work is being completed; and sets forth a means of reimbursing the event authority for its work on Port property.

I will try to walk you through especially focusing on number four, the DDA. Numbers one through three essentially govern the short term process, starting from now or when the DDA is ultimately executed through the event. Number four is the legacy of how the agreement between the Port, the city, and the event authority is memorialized.

To review obligations on both sides, the Port's infrastructure obligations include removing Pier 36, constructing the Brannan Street Wharf, relocating shore power at the Pier 27 cruise terminal, which we will do as part of the cruise terminal project that was just approved. An addition, though it was not a direct obligation to host a venue agreement, it is now an obligation in the DDA as was discussed in that item for the Port team to construct and to complete the cruise terminal project by March 1, 2013.

Those are our obligations under the DDA. Under the authority work, this is why this document is complex and was difficult to finalize. There are four different categories of infrastructure projects the authority will embark on. The first and the most straightforward is authority infrastructure work. These are works that were agreed upon in the host and venue agreement that were obligations of the authority; the rest are categories that they may elect to do on Port property.

Essentially this authority infrastructure work category involves improvements to Piers 30-32 that are necessary to stage the event and are performed beforehand. All these are done before the events: the relocation of shore power; demolition of the Pier 27 shed and portions of 29; and the final agreement is late-breaking news. The cruise terminal team agreed that it made more sense for the Port's cruise terminal construction contractor to do this work, so they will secure that construction site from the moment we have approvals, the moment the cruise terminal building is done.

Finally, to do other work that was deemed necessary as regulatory conditions of approval and through mitigation measures and the MMRP that you will consider. When you do projects this complex, in-water construction, there are a number of obligations that occur. They are the Port's obligations under authority infrastructure work in the DDA.

The first category of work that the authority can elect to do is additional work. This consists of dredging to accommodate spectator vessels. We are hearing that there will be large yachts that will come from around the world to see it, and they need places on the waterfront to be, and they need deep water for that. Substructure strengthening improvements at Piers 26 and 28; that is work that the authority can opt to do next to Piers 30-32 for up to 10 years.

The other categories are mainly deferred categories. So the authority can elect to defer authority infrastructure work with regard to substructure, especially seismic strengthening at Piers 30-32. They can elect to do that for up to 10 years. That is I believe a new addition since the staff report, and we will correct it in a corrected memorandum.

They can also elect to defer additional work, so they can opt for up to 10 years to defer major improvements at Piers 26 and 28. Then they can opt to do other work. To be clear, all these other categories, authority infrastructure work and additional work or the deferred flavors, are work that are eligible for rent credits or reimbursement under the DDA.

To look at the core deal, for performing \$55 million of infrastructure work before the match and Brad Benson will talk more about the scopes of work and their cost estimates later. For that core deal, there will be two primary things, long-term rights that will accrue to the development authority. The first is a no-cost, long-term lease, 66-year lease at Piers 30-32, and Seawall Lot 330 to try to transfer title. They will have up to 10 years to do the analysis and perform seismic upgrades on that as part of the deferred additional work.

Getting this done, there will be cost recovery from the work they do. If they end up doing more than \$55 million worth of work, which we expect that they will, there will be a series of mechanisms that they can recover money from. The first is other than the core deal for the first \$55 million is IFD bond proceeds from Piers 30-32 and Seawall Lot 330.

We are going to bring an informational item before you about the creation of an IFD district. There will be a number of project areas that we are at least beginning the process of creating for these sites, and so that would be a source of repayment specifically the bond proceeds from that. Piers 26 and 28 interim leases at parameter rents, for that first 10-year period without making major improvements, there will still be rent accruing from those properties, and that could be something that could be pledged to the event authority for their repayment.

A long-term lease at Pier 29. This would be at a \$6.00 per square foot base lease price based on the total square footage that is developed at that site. It would be escalated to the lease commencement, depending on where in that 10-year period that they can opt to do that. It would be another long-term right that would accrue at Pier 29.

This is a little different than was in the host and venue agreement. The host and venue agreement, especially the one that came before the Port Commission to you last year, had a defined basket of rights and an expectation of the costs. As it often happens in Port projects, costs, both in terms of the actual under-deck costs to work on Port property and also the extent of the project when it comes to mitigations and other work that has to happen, has gone up.

Because we have made an acknowledgement and understand the scopes of work that the event authority is proposing, we have also adjusted what we think the rightful give-get is in terms of a basket of recoverable goods.

Finally, there was some acknowledgement between Port staff and city and the event authority that those items that we just laid out might not be enough to recover the costs represented by authority infrastructure work and deferred authority infrastructure work. So we were seeking another source of repayment to make this a bucket of availability of fulfilling our obligations of repaying them appropriate to the magnitude of the work. What we came up with and we are seeking your approval for is a form of financial participation in another lease, the subsequent lease to this facility specifically at Piers 30-32 in the future. It is expected under the terms of the DDA that there will be a 66-year lease, which is a rent-free lease upon \$55 million of infrastructure work.

If it turns out that there are residual rent credits in these categories from a deferred infrastructure work and authority infrastructure work that have not been discharged over 66 years, they would have a limited right to participation in a subsequent long-term lease. That right would be limited to 50 percent participation in future income and would be limited to the first 15 years of that lease. To be clear, this is not another lease. We are not extending the term of the lease. We are just saying that if this extraordinary case occurs for this extraordinary event and this extraordinary DDA that we will be in a position to give them some relief and some participation in the finances that we work out with some subsequent lessee.

This is a complete list of remedies. These are the opportunities that the event authority has in terms of long-term development rights, in terms of IFD proceeds they accrue from the development they have done, and this represents what they can access to repay themselves. They are taking a significant amount of risk, and that risk will both mean that they will limit their costs on the front end and do what is necessary and appropriate, and that they will right-size that project and they will be specifically incentivized to create wonderful, successful projects on the San Francisco waterfront, which ultimately is what we are looking for. Seawall Lot 330 is also part of this; we are going to transfer it in fee title subject to a transfer agreement that we will bring for your consideration.

This is a graphic representation of how this process would work. I want to emphasize that- this is in order of priority. The Port has a good deal of certainty to know based on the costs and based on our work with the event authority on their expenditures what will happen to Port assets, etc.

I would like to specifically mention that the last one I described in detail, residual participation, happens at the end of that waterfall. It is after other remedies are exhausted. Specifically Pier 29 as a development site happens again at the end of the waterfall, only if all other means of repayment have been exhausted.

There is a similar but unrelated bucket of repayment options based on optional work that the event authority might elect to do at Piers 26 and 28. Again these are sites that I have to say in the development division of the Port we really have not had good solutions for how to save them in the long term. They are historic assets, contributing resources to the Embarcadero National Historic District, and they were put in the host and venue agreement originally as a mutual opportunity. If they are working on the San Francisco waterfront we would love for them to create a development site there and save these assets. Because currently our engineering division is projecting, is warning us not to expect more than 15 years of useful life out of the current facilities in their current conditions.

In these options, if they do pre- or post- match work at these sites, specifically post-match, because I think that is the real thing we are looking at since currently there have been no proposed scopes of work to do major work at Piers 26 and 28 that they would have the ability to secure long-term leases at these sites. They would be at \$6.00 per square foot, subject to lease escalations, and if it turns out that they make these projects successfully there could be some reset to market once rent credits are paid off.

This also has a bucket of goods. The first call would be those rent credits from the actual leases, the deemed rent for these legacy option sites at Piers 26 and 28. the event authority would also have access to IFD bond proceeds from these sites, so if they create more tax increment by successful new projects here that can be bonded against, and if they still have rent credits outstanding for substructure repair of these sites they can access those.

A project like this will also almost certainly be eligible for historic tax credits; that is our standard procedure and obligation of our development of these sites. The amount of historic tax credits net proceeds will be attributable towards that rent credit. If necessary, we have a similar setup where this future participation could be access at Pier 26 and 28 again, in a limited form. Fifty percent of a new, subsequent long-term lease for the first 15 years. In this case we added another option, which is that there potentially could be other historic rehabilitation financing tools. We cannot name one yet because we do not have one that is available readily at this point, but Port staff has worked tirelessly over the last five years to identify other sources. We were confident enough that there was one out there that we gave ourselves that option.

Just to summarize, I talked about Piers 26 and 28. I already talked about Pier 29. In the possible long-term lease there is a possible option for recovery of authority work at Piers 30-32, or authority infrastructure work. Again, it is based on terms of starting rent of \$6.00 per square foot now that will be escalated to the start of that lease term, which could happen anytime up to 10 years after the event. Then it will have an escalating structure along the way, and it is only available if it is required to reimburse authority infrastructure work.

I also need to say a little about marina leases. You've heard a little bit about marinas to date, and they were the subject of a press conference between the

event authority, Stephen Barclay, and the mayor. This is a process that has been clearly a sticking point on the waterfront, both from an environmental perspective and I would say from a proprietary Port perspective, that we pride ourselves in some of the assets we've already improved along the waterfront including Rincon Park. We thought it was appropriate as a view basin because of the park, and even though it was in the original host and venue agreement, we are very happy that a different agreement has been reached.

Just to clarify, the agreement that has been reached because there is dredging in both this basin and the Brannan Street Wharf basin. We still have potential for development rights in the Brannan Street open water basin. These are essentially an exclusive negotiating agreement, similar to what we would have in other Port projects. This gives them the right to seek project approvals both from the Port Commission and other major regulators such as BCDC.

A similar situation would be at Pier 54, where in both these cases there could be rent credits from the dredging that is already occurring to be applied there to marina improvements, whether it be other rents that we would normally collect once a marina like that would be done. That is all subject to future negotiation.

We should note that Pier 54 is part of our efforts to relocate people from America's Cup and cruise terminal sites. It does have new leaseholders there, not that we would necessarily get all the permits and approvals in five years, but we are also obligating under the DDA that a new lease at Pier 54 could not start for five years. Just so we can discharge our current obligations there.

The informational item that we are having today about IFDs is actually to bring to the Board of Supervisors approval a resolution of intention form on the infrastructure financing district. They are the taxing entity now, and they are the ones that need to give notice that is something that is under consideration. We need to adopt the CEQA findings, as does the Board of Supervisors. They are, in this case, going to approve the DDA.

Normally Port DDAs are proprietary subjects of the Port Commission's discretion; in this case, because it is an amendment to a city agreement, - the host and venue agreement, specifically sections five, six, and seven, which deal with property rights both short-term and long-term, we believe it is appropriate and necessary for the Board of Supervisors to approve it as to how it amends it.

There are other various work plans that affect Port properties, specifically the zero-waste plan, the people plan, and workforce plan that they will approve and will again have impacts on Port property. Finally, further down the line, not in 2011 or even very early 2012, there will actually be an IFD financing plan and other formation creation for these specific project areas within the Port jurisdiction that become IFD districts.

Some of this information was not in the staff report; it was subject to ongoing and continuing negotiations. There are a number of the points that I outlined here

today that are integral to the deal that we did not lay out in that memo. When we come and amend the resolution at this presentation, a follow-up, corrected memorandum will ultimately be part of the record for that resolution.

Brad Benson, Special Projects Manager - I am going to go through the scope of work approval, a little overview of some of the financial analysis that we have done although that is still in progress, and then some policy considerations for you along with Port staff's recommendation. While we have all been working on the CEQA process and negotiations, the event authority has hired a development team with design and engineering consultants to put together actual plans for the improvement of Port property. Much of this work is proposed at Piers 30-32; it is a 13-acre site that is currently a parking lot, not in good condition. It is load-restricted; cannot accept truck traffic currently, and the event is definitely going to be using the pier with trucks. There are poor utilities at the site. They now have submitted 60 percent designs for Piers 30-32, an amazing work on their part getting all that done as quickly as they did and are proposing very substantial structural improvements to the pier.

Many pile repairs, new piles where they are needed, a partial seismic upgrade of the facility, not that would serve future development, but just for event purposes; a new seismic joint at Piers 30-32 so that it is separated from the seawall. Currently, between the old Piers 30 and 32 there is a depressed area that used to be a ramp for trucks and that is going to be leveled off with the rest of the pier so that it can all be used as one location.

The Port has reviewed those plans. The engineering department hired a third party engineering firm to go through those 60 percent designs. We find them to be a good approach to the piers. We have requested a refined seismic analysis. There are a couple of ways under the code that you can develop your seismic solution for a structure like Piers 30-32 and have asked that refined analysis be peer-reviewed by the Port's third-party engineer. The event authority is working with us on that work.

Because of the substantial upgrades, we are working with the regional water board and they are looking at storm water considerations at the site and have asked that we look at low impact development solutions to treat storm water on the pier, consistent with, you'll recall the Port developed with the PUC storm water design guidelines for major developments along the Port's property, and that will be a guide in developing those solutions.

The event authority is also undertaking the storm water control plant for Pier 27, in the area where buildings are being demolished to make way for the cruise terminal and the new provisioning area out on the end of the pier. We found late in the process that under Pier 29 there are a number of piles, about 15 piles need repair to support that pier. The event authority is taking that on.

After the demolition of Pier 27 and non-historic portion of Pier 29 or the portion of Pier 29 where it connected with Pier 27, there needs to be a new end wall

installed on Pier 29 that would be consistent with the Secretary's Standards for treatment of historic properties. We recommend approval of all of those plans.

Jonathan Stern talked a little bit about how costs went up in this process. One of the costs that we did not anticipate when we were before you a year ago last November were a number of BCDC-related costs. The entire team -- OEWD, the Port, Rec and Park, and the event authority -- have been working diligently with BCDC staff to identify a number of permanent improvements along the waterfront in advance of the event where we will be providing enhanced public access to the bay.

They include Pier 64 removal. It is a ghost pile field in the Mission Bay area; a new apron on Pier 19 South; and a Pier 23 handrail to protect public access in that area. Jonathan talked a little bit about the dredging in multiple locations. Our dredge team at the Port has reviewed the dredge plans and they are going through the DMMO process right now.

There are regulatory requirements, soft costs, and the like that we are recommending for your approval today. The total of that work we estimate at \$74 million, higher than the \$55 million that we estimated when we were before you in November. Additionally we tried to get our arms around some of the post-match work that will be eligible for reimbursement under the host and venue agreement. That principally includes the future seismic upgrade of Piers 30-32. I mentioned the partial upgrade that is happening pre-match; there will be the need for additional piles to support the future development at the site. We would propose the same sort of refined seismic analysis there, and that work we recommend be deemed approved as long as there are no flood hazards at the site. We estimate the cost of that at \$31 million, and that totals \$105 million, pre- and post-match, excluding work that may occur at Piers 26 and 28.

Financial analysis - negotiations have been ongoing. I want to credit Elaine Forbes, Nate Cruz, the Port's financial analysis, Jonathan Stern and others who have been working on the impacts of this project. What are the financial impacts of all of these improvements and developments and associated development rights?

It has been an amazing job, and it is a job that needs to continue. We have new terms before you today. They need to sit down with those terms and really come back and through the Board of Supervisors' budget analyst process report on the financial impacts of the final deal before you.

We do know this: that with the deal structure that Jonathan went over, this deal is more protective of the Port's balance sheet and financial interests than what was analyzed in the Port staff report. We think it brackets risk, it shares some of the cost exposure between the city and the event authority, and we do recommend the deal before you today.

I would like to go over what we know are some of the opportunity costs of the properties that are in play. We valued Seawall Lot 330 at \$24 million. We are looking at lost rent streams at the sites that will become future development sites, and the analysis here is what are we collecting now in terms of parameter rents from the sites, and what is the present value of that rent stream over the period of time that our engineering division estimates we will be able to continue to lease these sites? These are all old piers, some nearing the end of their useful life. So we total that present value rent stream and the value of Seawall Lot 330 at about \$65 million.

Additionally, the deal would provide the event authority with infrastructure financing district debt proceeds, subject to approval by the Board of Supervisors, in the formation of a district and also federal historic tax credits at Piers 26 and 28. That explains the additional financial tools that are non-Port financial tools that would be added to this \$65 million to help cover the event authority's costs. The value of those tools will be dependent on the appraised value of the future development and the eligible costs for historic tax credits.

We wanted to wrap up with some brief policy analysis. We talked to you a lot last November and through the board process about the economic benefits of the America's Cup to the Port and to the city. We believe that the 34th America's Cup will brand the Port of San Francisco and San Francisco Bay as a world-class venue for sailing well beyond the event.

We are going to be accelerating major new public benefits, not just in the area of Piers 27 and 29 and 30-32, but as far down as Pier 80 and beyond Port property in the marina green area and GGNRA.

Major Port infrastructure upgrades: we had not contemplated a plan in either our capital plan or our waterfront land use plan for fixing Piers 30-32 or 26 and 28 and we are getting the benefit of those upgrades.

Then our tenants. We are very mindful of the impact on tenants who would be displaced in this process. You should be proud of the real estate division's efforts to do outreach to all of those tenants to try and make the transition easy for them, but there are many other Port tenants who are going to see a major benefit as a result of having the America's Cup, both the Port's retail and maritime tenants.

We talked a lot about environmental stewardship; that has been a major theme of our planning efforts. We are very proud at the staff level of the Pier 70 shore power project. I want to mention Teri Shore with Turtle Island Restoration Network and Diane Bailey at NRDC, who were major advocates of this major air quality improvement project. There are many other efforts. Through the plans that Mike Martin mentioned, and also through the CEQA document.

Obviously AC 34 has helped accelerate the cruise terminal project, as you heard earlier today. That is probably the key benefit for the Port as a port. I mentioned Piers 30-32 and how it relates to the waterfront land use plan. We will finally

realize a mixed-use project at that location and we will generate many jobs during the construction phase of all of this work and through the event.

However, there are some risks. We want to share just a few of those. As I mentioned earlier, the cost of preparing the waterfront for the event is considerably higher than what we projected when we were before you and before the Board of Supervisors last year. We estimate it at \$105 million, but it could go up substantially if the event authority undertakes the work at Piers 26 and 28.

We are not seeing in this proposal a financial participation in the way that we normally do with our Port leases. The terms of the DDA do not provide for that participation rent at either Piers 30-32 or Seawall Lot 330.

One that Port staff has already started meeting on, which is the prospect of getting three to six finger piers back, all at once, six months after the event. We have been working with capital planning staff, finance and administration, and real estate staff to come up with some strategies to present to you so that we are ready to bring those piers back online.

Briefly, our recommendations are to approve the project as modified through negotiation in the CEQA process, authorize Port staff to develop a plan of finance for Port-funded improvements, and bring that recommendation back to the commission and approve the DDA.

I would like to end by making a few thanks to folks who have been working on this. It has been an amazing team effort. I mentioned Finance and Administration, and the Real Estate staff. Our Maritime staff has been working throughout the process to make sure that we make informed decisions about the racecourse on the bay and do not impact maritime commerce. The Planning and Development division is an amazing group of people. They undertake these individual projects at single piers and here we are presented with development at five piers all at once. It has been impressive to watch. Mike Martin and Adam Van de Water at the office of Economic and Workforce Development have been amazing to work with, great partners in this process. Earlier, we thanked the Planning Commission staff, BCDC, our other regulatory partner staff have been incredible as well as the event authority and race management. It has been a difficult and time-consuming learning process as we have gone through this together, but you have assembled an amazing team and we are confident of your ability to deliver on the America's Cup.

Finally, I want to close by thanking Port Director Monique Moyer. She is managing the entire Port, and we have met literally three times a week to go over the details of this project, and she has been on top of every detail. Thank you for your leadership.

ACTION: Commissioner Woo Ho moved approval; Commissioner Katz seconded the motion. All of the Commissioners were in favor. Resolution Nos. 11-79 and 80 were adopted.

Commissioner Brandon - I would like to give the event authority an opportunity to come up and speak if they wish to.

Paul Frentsos - I am the executive vice president and chief operating officer at San Francisco Travel Association. On behalf of our 1556 members and the 63,000 employees of our city's number one industry, I am here to say that we are in full support of America's Cup coming to San Francisco. A couple of reasons: the significant economic impact that it will have on the city in bringing jobs to the area, and also for the improvement along the waterfront, as well as the massive global exposure and visibility from hosting this event, and the unending value that comes by having had millions of visitors come to San Francisco to go back home and share their experiences with friends, families, and coworkers about how great the city is, and to have them return. In closing, we are in full support of the event coming.

Teri Shore - I am with seaturtles.org, also known as Turtle Island Restoration Network. We are a marine conservation organization based out of West Marin. I am here today to make a few comments about the environmental process and the MMRPs. We have been working closely with Port staff as well as staff at the city and at the America's Cup event authority to address some of the environmental concerns that we had. As you all well know, one of our primary concerns was the temporary decommissioning of shoreside power at Pier 27 for cruise ships, a very important, publicly funded project. I want to thank the Port and specifically Brad Benson for working with us closely to come up with a project at Pier 70 on the electrification of an additional dry dock for maintenance of cruise ships and military vessels that will offset the emissions from the decommissioning of shoreside power. That is a major project that will have incredible air quality benefits during the America's Cup, the cruise ship terminal construction and beyond, particularly when shoreside power comes back onboard. It is definitely a win for the environment, so we definitely thank you all for that. Some of the additional air quality measures that I wanted to call out that we recommended and were incorporated in the MMRPs include commitments to cleaner marine fuels; engines for marine vessels and also construction equipment; electrical shore power for super yachts and for construction equipment. These are all in the mitigation measures that you may be adopting today as feasible. That gives us a lot of confidence that this is going to go forward. In addition, there are some remaining environmental concerns within the environmental council, of which I am a member as well. Mostly related to Crissy Field protection, the parks, some of the neighborhoods, marine mammal monitoring, and enforcement and implementation of the mitigation measures. We urge the commissioners and the staff to continue to work with the environmental community to work out those remaining issues, which I think personally are definitely really doable. One last comment I would like to make if I may is that I was also engaged in the cruise ship terminal environmental advisory committee that was meeting 'way back then when Piers 30-32 was being considered. Even though that project did not materialize, the environmental agreements that we made for cruise ships during that time are still legacy protocols for the cruise ships that prevents them from discharging into the bay.

Lisa Gidley - I am with the South Beach Yacht Club; I am the rear commodore elect for 2012 and have the privilege of developing and managing our on-the-water programs for 2012. South Beach Yacht Club is a volunteer and member-run, not-for-profit 501(c)(7) yacht club. Since its inception in 1988, South Beach has been closely affiliated with the Bay Area Association of Disabled Sailors, and a strong supporter of the disabled community's access to on-the-water activities. We have a vibrant and ever-growing youth sailing program, which grants scholarships to underprivileged youth for our weeklong youth sailing camps. First of all, South Beach Yacht Club fully supports the CEQA findings and supports the approval for the findings. We also urge the Port to consider this as the first step, and the springboard to bring our community and our disabled sailors and our youth not only the full public access to the waterfront that the America's Cup and the event authority are promoting, but also to promote and support any future programs that get the youth, get our disabled sailors and the newly initiated of the community to sailing and to the water activities not only to the waterfront, but actually on the water. So supporting of any future facilities, improvements, and/or plans or designs to support that, particularly in the southeast waterfront area, is what we urge.

Kathleen Yip - I am representing the natural resources defense council to express our appreciation for the efforts of the city and Port of San Francisco to address and mitigate many of the issues related to the America's Cup in the final EIR. The AC 34 event is large and complicated, with numerous potential environmental and community impacts. We note that some concerns remain outstanding, and we strongly encourage the city and port to continue working with stakeholders to minimize and fully mitigate these important items. We also anticipate a strong mitigation monitoring and reporting program that will ensure that all environmental programs and mitigations are successfully and appropriately implemented. At the same time, we recognize the many positive steps that San Francisco has taken on this project. The waste plan is very thorough and well-constructed, and we appreciate the plans to follow LEED purchasing standards for recycled content and specific requirements on compostable containers. We also applaud the zero-waste principles that will avoid contributing to marine plastic pollution and increase public attention to this important issue. We are particularly pleased with the robust set of measures developed to address significant air pollution caused by the plan to disable the new shore power service. Together with the races, these air impacts would have been substantial, and left unmitigated in the initial plans. The final set of mitigations proposed with the Pier 70 shore power project as a centerpiece will leave San Francisco with cleaner air than it has today. While we are strongly supportive of this package of air quality mitigation measures, the Pier 70 project in particular may be subject to ongoing negotiations, and we urge you to make your best efforts to ensure implementation of the Pier 70 mitigation project, and to commit to an alternative mitigation contingency in the event that the project cannot be completed. Further, to protect our marine resources we still ask for a robust implementation of measures to ensure safe boating practices by visiting mariners and best practices in marine construction. To protect marine mammals we reiterate our request that the best available sound minimization techniques be

employed during construction, and we also strongly recommend that the notice to boaters referenced in the water and air traffic plan be conveyed to visiting mariners before their entry into the bay and it contains sufficient detail and images to adequately convey the potential impacts of visiting vessel activity. We also understand that these concerns may have been addressed in the latest mitigation package, and if so that is good news. We appreciate the dedicated attention of San Francisco staff to the many important environmental details of this project, and with continued efforts to address all remaining environmental and community concerns and appropriate strong mitigation monitoring or reporting program we support this project.

Veronica Sanchez – I am wearing my official hat today for the international organization of master mates and pilots, our captains crew the ferryboats on the bay, particularly our good union employer the Blue and Gold Fleet. We are here to voice our support for the America's Cup and to let you know that we look forward to working with the America's Cup to provide ferries that will bring spectators out to the racing site, and to be chartered by America's Cup, and to that business opportunity that is presented to us. We thank the Port staff and the city staff for showing flexibility and reflecting in the mitigation measures the fact that the current fleet of ferries could not be repowered in time for this event to have tier four marine engines and that you did put in language here that would require those modifications if feasible. We are appreciative of that language so that our fleet of ferries, particularly Blue and Gold's fleet, is not at a disadvantage.

Paul Oliva - This time representing South Beach Yacht Club, and we bear your indulgence for the double dip with the testimony. South Beach Yacht Club has over 500 members and over 100 members additionally who are sailors with disabilities. We are a significant tenant of South Beach Harbor and a major neighbor of the project by being the yacht club facility that is closest, within walking distance to Piers 30-32, which would be the home of the America's Cup Team bases. With respect to adoption of the environmental impact report and the monitoring and mitigation and reporting plan, the MMRP, and the other aspects that have been recommended by staff we urge immediate adoption, as recommended. We believe the process, the level of input, and the posting of the information has been thorough, complete, and accurate. We emphasize that it is now time to move forward with implementation and continued close coordination with stakeholders including ourselves. With respect to that implementation, you have my commitment as the incoming commodore of that yacht club to do several things. First of all, to coordinate with the Yacht Club Alliance for providing boats and people for water event management, which is successful to the event, and safe operation of the event. Second, to reach out to America's Cup teams for hospitality and interaction with the southeast waterfront community, so there is additional benefit of spending and community involvement. Third, to engage in education on environmental considerations, clean operation of sailing and boats as well as maintenance of those boats, as well as operation of our on-the-water programs as Lisa Gidley mentioned with a clean regattas program, which is the same as what the America's Cup has adopted through Sailors for the Sea. Fourth, to move forward a project that we may decide to call, with stakeholder

input, a community sailing and Paralympics center at Pier 40 that in connection with the America's Cup could form a legacy project that would double the number of kids that we are able to serve perhaps up to as many as 120 to 160 kids per year. We served 80 this past year, including those from disadvantaged neighborhoods, to expand an adult small boat sailing program and to enable a San Francisco team for the 2016 Paralympics. We pledge to work with you on vibrant and financially viable access to the water recreation on southeast waterfront. The America's Cup is more than the America's Cup. It is vibrant waterfront. It is jobs. It is access. It is youth interest in outdoor activity, and it is environmental stewardship. We request your support.

Ruth Gravanis - I am speaking as an individual. I did not read the entire EIR. I did read the MMRPs, though, as they relate to the protection of biological resources, and I see that there are many very good measures that have been proposed in the set of mitigations but I am still concerned about a lack of enforceability with regard to some of them. For example, the signage at wetland sites - signage and fencing are not working now at many of our wetland sites and other very important ecological resources and so I hope that we are not underestimating the need for a very serious fencing program. Also in the measure dealing with protecting the Crissy Beach Wildlife Protection Area, we have great language about signage and fencing, and even resource monitors but resource monitors cannot remove people who have decided to breach the fence. They cannot issue citations. I do not know if they will be trained in doing citizens arrests or not. There are still some things that are a little bit up in the air with regard to the enforceability of some of these measures. With regard to accountability, we have a lot of these measures both the event authority and the city, specifically OEWD, mentioned as responsible for implementing them. That is great; I like to see cooperative responsibility but a lot of times it just does not work. One entity is going to say, "Oh, we thought you were going to do it," and the other will say, "Oh, we thought you were going to do it." From the public's point of view it means that there is nobody who is really accountable. We do not know where the buck stops, so it is a little bit frustrating to have two or more entities named as responsible for these measures. Also with regard to funding, I know that CEQA does not require that you identify funding sources in the MMRPs, but it seems like there is a strong implication that whoever is named as being responsible for implementing a measure is also going to be held responsible for coming up with the money. I am a little nervous about having OEWD named as responsible for implementing some of these when we do not really know exactly where the money is coming from. You heard great presentations on how the Port's balance sheet is going to be protected, but how is the city's general fund going to be protected is a big question that I still have. If we approve these MMRPs with OEWD named as responsible, what might be the implications on the general fund and on the delivery of city services? There are just some of the things that I hope can still be worked out. I look forward to continuing to work with city staff on the enforceability of these measures.

Norman Pearce, representing myself, Fog City Yacht Club, and the general citizenship of San Francisco - With regard to this fabulous event that is going to

help bring recreational boating and access for the general population to the waterfront and on-the-water activities, there has been a high amount of cooperation between the many different segments of the government and private enterprise here to make this thing come together, and I am looking forward to your approval of it today.

Jason Santana, International Longshoremen and Warehousemen's Union and Local 75, watchman's charter - Something I did not mention earlier is that I am a third-generation member with the ILWU. My grandfather worked with cargo ships. My father is also a marine clerk. Nowadays the Port is changing. We have already been working the cruise ships and today we are talking about racing boats and mega yachts at these terminals where my grandfather once worked. What has not changed is the need for good paying union jobs on the docks, and that is why we support this project. Our members are qualified, credentialed, and ready to guard Port facilities where AC racing boats or spectator boats will be docked. Once again, thank you for your time in listening. We look forward to everyone's cooperation working together in the future.

Manuel Flores - I am a proud member of the carpenters Local 22. Last night at about 7:30 the train left the station. It is making a stop right here for all of us to hop on board because it is time. There are no delays. There is no moving back. It is moving forward. This goes beyond jobs. It is a great thing for the city and county of San Francisco, and I commend the staff -- Jonathan, Brad, Mike Martin, Joy Navarrete. They did a lot of work in an incredibly short period of time. There are flaws and things that still have to be worked out but that thing is almost perfect. I cannot say it is perfect, but it is a beautiful thing. It is time to move forward because all eyes are upon us. I know one thing: the city and county of San Francisco knows how to get things done. I look for your approval.

Commissioner Lazarus - Just to clarify, the people plan, the zero-waste plan, the other plans, are those incorporated by reference into the CEQA? How do you make sure that they all kind of dovetail? I believe that the National Park Service is undertaking its own environmental assessment. Could you tell us very briefly how that meshes as well?

Diane Oshima - That is actually a very excellent question. I am sorry I did not cover it before. The CEQA findings do cover all of the implementation plans that are planned for America's Cup, so they are summarized and they are included within the EIR. Even though they are evolving, they are living documents each that will incorporate best practices. Among those, they will respond to the performance requirements in all the mitigation measures that you are approving as part of these actions. Those are covered. With respect to the National Park Service and the National Environmental Protection Act (NEPA) environmental review process, the CEQA equivalent that they need to go through, that is ongoing, and the documents will be coming out in the spring. They have similar but somewhat different standards for their review, so that information from the EIR that is common to what needs to get covered in NEPA gets picked up, and

then additional refinements or changes according to their interpretation of NEPA will play out in those documents.

For your purposes today, you are using the final EIR as the basis for your actions. I have been advised by the city attorney that I do not need to walk you through all of these revisions. They are pretty much technical revisions to memorialize properly the scope of the project that I described to you that you are approving today. We have caught some typos and some editorial errors that we would like to correct. So I am advised that on that basis we can go ahead with that on the basis of your action today.

I would also like to acknowledge the city attorney's office in general as part of the unsung heroes of this effort. The Port's legal team, the entire legal team has been working on some aspect of America's Cup, but in particular Joanne Sakai. You would not have a DDA in front of you were it not for Joanne. Marlena Byrne and Kate Stacey from the Land Use team in particular have been instrumental in getting the planning department and the Port through this whole process. Kudos to them.

Commissioner Lazarus - We are adopting the sub-alternative when we adopt this motion. Is that correct?

Diane Oshima - Yes. It is a little bit complicated, but for environmental impact coverage purposes, yes. We are calling it the project, just to be simple about it, because it does sort of blend all these different pieces.

Commissioner Lazarus - I have one minor question coming out of the staff report. There is a reference to implementing a program to protect against sea level rise. It says the authority will allow a community facilities district to be formed. I am not sure what a community facilities district is.

Jonathan Stern - A community facilities district is often formed under the Mello-Roos laws of the state. It is a special tax district that is usually approved just by property owners of a specific piece of property to handle specific infrastructure or services need of those properties. In this case, it would be obligating future possessory taxpayers at these two sites, SWL 330 and Piers 30-32, to pay for the maintenance of the Brannan Street Wharf.

Jonathan Stern - Port staff is planning on doing it in 2012 or 2013, but we have been thinking about how we address sea level rise and we are contemplating there will be additional costs in the future and that there will have to be some mechanism where property owners decide to tax themselves to pay for those improvements. That was included in anticipation of some future CFD about sea level rise.

ACTION: Commissioner Lazarus - I would like to move to amend resolution 11-80. I believe it is the fifth resolve clause. It is pretty specific about authorizing the executive director to reimburse for certain amounts, and I think given what we

have heard today and acknowledging a bit of the fluidity with all of this and that no doubt some additional financial analysis is going to be performed that we consider removing that particular clause from the resolution. Commissioner FX Crowley seconded the motion.

Jonathan Stern - There are a few technical corrections to Resolution 11-80. One is superseded by the motion that Commissioner Lazarus just made. On page 36, on resolution 11-80, it is the second resolve clause. Staff proposes deleting the phrase "and the transactions that the DA contemplates incorporating the business terms" and replacing that phrase with "a copy of which is on file with the Port Commission secretary substantially on the terms set forth." Then after the date, December 16, 2011, add the phrase "as amended by the staff presentation at that meeting." I had a change in resolve clause five, but there is now a motion that that will be struck so I guess I do not have to read that. In resolve clause six, towards the end of that on the fourth line down there is a phrase that says, "Amendment or other modifications to the DDA and venue leases;" we propose striking "and venue leases" at that point since venue leases are not here for your approval. And then on the second to last line, it says "parties' obligations therein," and we are proposing striking "therein" and adding the phrase "under the DDA." Those are our proposed changes to two resolve clauses in the resolution.

Commissioner Lazarus - Should that come from one of us, or is that sufficient to have read it in?

Commissioner Brandon - Are there any other changes or amendments?

Diane Oshima - There are two very minor technical changes to 11-79; they are non-substantive but one of them has a reference to a motion number from the Planning Commission that does not have to be included so I would propose the deletion of that.

Under the second whereas clause we can delete the reference to the motion number, so the period would just stand after CEQA guidelines. In a couple of places we have referred to the mitigation monitoring program as exhibit one, referred to it correctly in one instance. It is attachments B1, B2, and B3 but we did not do that consistently in one of the other whereas clauses so we would like to correct that.

Executive Director Monique Moyer - That would be the bottom whereas clause on page 31. In the very last line it says, "As attachments B1 to B3," and she would like it to read, "B1, B2, B3."

ACTION: Commissioner Crowley made a motion to approve Resolution 11-79 and 11-80 as amended. Commissioner Lazarus seconded the motion.

Commissioner Katz – I would like to put in my thanks both to the staff who have just gone above and beyond to meet these very tight deadlines on a very significant project. I also want to thank the public for all of their engagement and participation. I think we have ended up, as everyone has noted, better off for

having had that participation. One of the things that were demonstrated in all of this is our ongoing commitment to ensuring that concerns are heard, that this will be one of the most well thought out projects and efforts, and hopefully will become a model of stewardship on so many different levels particularly in environmental areas as one of the speakers even mentioned. This really should become a type of best practices for these kinds of large events. Many of these issues have been thought through, so I want to throw in my thanks to the public for raising these issues and to Port and City staff who have just gone above and beyond.

Commissioner Woo Ho - Everybody has said it. I would echo what Commissioner Katz said; and I have already asked my other questions in closed session.

Commissioner Brandon - We are ready to vote. I would like to echo my fellow commissioners and thank the dream team -- the Port team, the planning team, the mayor's team, the AC team, and the public. This has just been a great effort, and so much work has been done in such a short time to pull this off, and it is going to be so beneficial to the city and county of San Francisco. Thank you everyone for your sleepless night and your hard work.

Executive Director Monique Moyer - Brad thanked everyone except Brad. Please join me in thanking the project manager extraordinaire. Jonathan gave me some beautiful words that the America's Cup is a very special project, transcending any one expertise of Port staff. As you pointed out it included development, finance, real estate, legal, engineering, maintenance, etc. but it took a very special project manager to pull it off, and that is Brad. Thank you for that.

C. Informational Update on the Establishment of a Port Infrastructure Financing District.

Jonathan Stern - The resolution in front of you is specifically to form an overall IFD district. It would run through all of Port property. It is a resolution for the Board of Supervisors as the taxing entity to say we are going to contemplate this. It does not put anything into effect at this point. We have also identified a number of project areas that include three different flavors of project areas we might contemplate including a normal waterfront project area for development sites, such as Seawall Lot 337 or Seawall Lot 351; special project areas vis-a-vis the America's Cup, which are A, B, C, and D of the four properties I spent a lot of time talking to you about; and then enhanced Pier 70 district. These are all project areas we are contemplating; we are not asking for your approval at this point because there will be more specific ordinances that will have to be advanced to the Board of Supervisors, and we will of course bring to you for your approvals before doing that. This is a very important step both from fulfilling our commitments under the host and venue agreement and as a financing tool that we have been contemplating for over six years. It is a way to bring the benefits we bring to the city through property tax increment back to the waterfront to improve the waterfront further still for the people of San Francisco.

Commissioner Woo Ho - There is property tax, and then there is incremental property tax. What amount goes into the IFD?

Jonathan Stern - Technically at this point there is no property tax that is collected in the Port. There is possessory interest tax, which is for all intents and purposes equivalent but it is specifically taxed to leaseholders on Port property. It only comes into play in any significant amounts when there is a long-term lease. Any time we take a piece of property that is currently in a short-term lease and put it into a long-term lease at a higher value with a higher improvement value, there will be a tax increment -- new taxes that are generated.

Commissioner Woo Ho - Since there is no tax today on some of these, and there is development, and so there is now new property tax, the entire amount is then part of the IFD revenue?

Jonathan Stern - That is correct or almost the whole amount.

Commissioner Woo Ho - If you use an existing improvement and there was existing property tax, it would only be the increased value of the property tax that would be part of the IFD revenue. Is that correct?

Jonathan Stern - That is correct. I also want to point out that we are forming an IFD district on all of Port property but only in regard to where we can spend the money. Creating a Port-wide IFD district will allow us from these specific project areas which will be approved later when there is tax increment to be spent, these are the locations meaning all of Port property where we can spend them.

Commissioner Woo Ho - 8 Washington is an example which is a project that is all new tax. All that would accrue?

Jonathan Stern - That is correct.

Executive Director Moyer - It accrues but some of it will go to the state and the city according to law.

Commissioner Woo Ho - Do we know what percentage comes to the Port?

Executive Director Moyer - We are waiting for the controller to confirm that with us. As Jonathan pointed out, when we get to more specific numbers we will of course be back but the first step is to get the city to notice the district.

Commissioner Woo Ho - Obviously we have to repay out of the IFD financing. So that is part of the repayment source.

Executive Director Moyer -- Yes, for the project we just approved.

Jonathan Stern - Yes. To reiterate, each one of the times we bring a project area we will be in very specific financial terms both in terms of what projects can be

constructed or funded through the project, but also we will be seeking the Board of Supervisors' permission each time for what portion of property tax can be diverted. That will be a discussion with city staff and policymakers.

Commissioner Crowley - How did staff reach the number of the project of 45 years' tax? Where did that come from?

Jonathan Stern - The 45 limit is a provision in state law regarding IFDs.

Commissioner Woo Ho - When you request the IFD, is there some sort of projection you have to provide to show what you think the incremental tax is going to do?

Jonathan Stern - That's right.

Commissioner Woo Ho - The bonding issue - you have to show obviously that there is sufficient revenue coming in to repay?

Jonathan Stern - For each IFD project area that will be advanced for the Commission and the Board of Supervisors' approval, we will do an infrastructure financing plan. That will identify at minimum the tax increment expected and the bonding capacity therein, and it will identify projects.

Commissioner Woo Ho - Is there any particular ratio required for revenue to debt repayment?

Jonathan Stern - It changes, depending on the likely projections of the market. We have to do our best efforts to put together a credible plan of finance.

Commissioner Woo Ho - In other words there is no minimum requirement?

Executive Director Moyer – It depends on the debt vehicle that we use, what the minimum requirements will be. We are still exploring that.

Commissioner Lazarus – Does staff intend to come back with an action item fairly soon in 2012?

Jonathan Stern - This is just a notice. We will come back for approval. The Port-wide IFD is an enabling master device, and likely project areas associated with the projects that are currently heading towards approvals, including the America's Cup that we just approved.

Commissioner Brandon - Thank you, Jonathan. I look forward to the next revision or draft of the IFD.

The Commission took a 15-minute recess. Commissioner FX Crowley left the meeting at 2 p.m.

10. REAL ESTATE

- A. Request approval of the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Tenant Relocation Plan San Francisco, California. (Resolution Nos. 11-81 and 11-82)

Mark Lozovoy, assistant deputy director of real estate for the Port of San Francisco - Now that we have a cruise ship terminal project, and now that we have an America's Cup project, the convergence and the overlap of these two projects with respect to both time schedules and shared facilities has necessitated the need for the Port to plan for the relocation of approximately 76 tenants that currently occupy Port space within the footprint of those projects. In advance preparation of these projects, the Port has been in close communication with potentially affected tenants by providing ongoing written information and arranging personal meetings with the tenants to inform them as to the status of these projects.

In addition to the preliminary outreach to the tenants, the California Relocation Assistance Law requires Port Commission to adopt a relocation plan, including a relocation assistance program which must include reimbursements of certain relocation costs. As such, the Port hired Overland Pacific and Cutler, a real estate services firm specializing in the relocation process, to prepare a draft relocation plan for the cruise ship terminal project and the America's Cup project, as both of those are described in the EIR.

The basic purpose of the state required relocation plan is to first describe the project and to identify the anticipated impacts on tenants in the affected areas, and perhaps most importantly, to explain the relocation assistance program. The relocation assistance program, as described in the draft relocation plan, assists displaced tenants in finding possible alternative locations, and helps them determine what types of benefits are available to them. At the tenant's option, the tenant can be eligible for either a payment for actual reasonable moving costs or a fixed payment of \$20,000, which is based on a formula related to average net earnings of the business.

Eligible tenants must submit their claim of reimbursement within 18 months of their move to the Port. The plan also establishes an appeals process, should a displaced tenant have a perceived grievance based on the Port's decision to possibly decline a claim. The tenant can appeal to the city's relocation appeals board, which is the established entity to hear such cases in the city.

The estimated total relocation cost for both of these projects -- the cruise ship terminal project and the America's Cup relocations -- is approximately \$1.8 million, which includes a 20 percent contingency. Regarding CEQA, the tenant relocation requirements as well as the impacts of the tenant relocations were included in the EIR, pursuant to CEQA requirements.

Your earlier approval today of the Port's adoption of resolutions 11-75, CEQA findings for the cruise terminal project, and resolution 11-79, CEQA findings for the 34th America's Cup project, include findings that provide for Port Commission approval of the relocation plan.

Also as required, on November 14, 2011 the Port published the draft relocation plan and notified potentially affected tenants that it was available for a 30-day public comment period. To date, we have received one comment letter, which the Port is currently responding to.

In closing, Port staff recommends the Port Commission adopt the attached resolutions approving the draft tenant relocation plan as the Port's final relocation plan for these projects in resolution 11-81 for the Pier 27 James R. Herman Cruise Terminal and Northeast Wharf Plaza project, and in resolution 11-82 for the 34th America's Cup Project. I want to point out that Chad Wakefield from Overland Pacific Cutler, our consultant, is also here for any kind of technical relocation law questions.

Commissioner Lazarus - Is there a definition of eligible tenant? In other words, is it somebody who is currently under a longer-term lease as opposed to month-to-month?

Mark Lozovoy - Any tenant that is affected by the project in the footprint of the project is an eligible tenant.

Commissioner Woo Ho – In terms of the planning for the actual execution of this, how far along are you in identifying it in terms of where people can go?

Mark Lozovoy - We are well on our way. We have identified relocation sites; we have been doing a lot of preemptive work.

Commissioner Woo Ho - Would you say you have identified almost 100 percent at this point, or you still have a ways to go?

Mark Lozovoy - We hope to relocate probably 75 to 80 percent. One of the issues is geographically a lot of the space that they will be moving from is from the northern waterfront to the southern waterfront. There are some tenants that need to be in the northern waterfront because they support Fisherman's Wharf shops or something like that, and storage space. For some, the northern waterfront is the only place that they can be. Some of those tenants, mainly some storage tenants, we may not be able to accommodate. We have office space in the northern waterfront but we are going to be lean on shed space in the northern waterfront.

Commissioner Woo Ho - Working with tenants, have we heard any negative reaction? They have all been expecting it, right?

Mark Lozovoy - We have a very good history with relocating tenants. We did the Ferry Building project, the ballpark project, Piers 1, 1½ through 5; the Exploratorium. We stay in very close contact with our tenants, and that seems to be the key and the right formula.

Commissioner Katz - In terms of the cost estimates, I understand there is a requirement for reasonable expenses if there is a reimbursement. Do we have any kind of way of analyzing the expenses and confirming whether they are reasonable or not?

Mark Lozovoy - These are estimates that actually came from our consultant. We got the same, exact estimates from our internal analysis of what we thought the relocation costs would be.

Commissioner Katz - I understand what our costs, what is anticipated. Under a scenario where we would have to reimburse a tenant for their "reasonable" expenses, who makes that determination? We understand what we are anticipating our expenses will be, and they do make sense but if a tenant goes, no pun intended, overboard in their costs, where would we fall on that?

Mark Lozovoy - They have to actually have proof of what their expenses were, and then we would go through those expenses and find them to be reasonable or unreasonable. If they were unreasonable, we might approve some; not all. If they have a grievance they could actually go to the relocation board, which is a part of the rent control board in San Francisco.

ACTION: Commissioner Lazarus moved approval; Commissioner Katz seconded the motion. All of the Commissioners were in favor. Resolution Nos. 11-81 and 82 were adopted.

B. Informational presentation of proposed Policy for Zero Waste Events and Activities, restricting the sale, use, and distribution of certain plastic bags, plastic bottles, plastic food ware, and the release of balloons.

Rich Berman, Port staff - I am here to talk about the proposed policy for zero waste events and activities at the Port. The primary goal is to ensure that food wastes that are generated at events are compostable and protect marine life in the bay from plastics and litter. There is a long history of concern about plastics in the water. We hear more of it now than ever. It goes back to little sea lion pups with those six-pack plastic rings around their necks, and now today we hear about plastics in gyres the size of Texas. We even had a tenant, David de Rothschild with Plastiki, who sailed through as a promotional event to bring attention to that. We are also building on some of the great efforts from the department of the environment, who I would like to acknowledge as a supporter of this effort, and trying to take the lead in some of the directions that they have set out for us.

The policy requires that any event sponsor who requires a real property agreement, license or a lease that has an expected attendance of 15,000 or more people would be subject to this policy. They would be required to prohibit

the sale or distribution of single-use plastic bottles or single-use plastic bags. It would require that food service ware be compostable and it would restrict and prohibit the intentional release of balloons in association with the event.

Exhibit B includes a list of not quite 40 events that we had in the last year; it would be an example of the types of events that would be considered under the policy. We would like to consider any comments that you have today and bring this back for an action item if that is something that you are in support of.

Alex Dmitriew, San Francisco Department of Environment - I am here to speak in favor of this policy and to commend Port staff for crafting a policy that so effectively speaks to a very important zero waste principle. Simply put, the principle is a hierarchy of best use of materials, and it basically says reduce, reuse, and recycle. Reduce is the top end of that hierarchy. What we are saying in terms of materials management is that reduction of material has the biggest single beneficial impact on the environment. What you cannot reduce, you reuse as much as possible. Only after you have done the reduction and reuse, then you recycle. Again, I stress that the top of the hierarchy is reduction. The measures as they are outlined in this policy that deal with plastic bags, plastic water bottles, plastic packaging, food service ware, balloons are all waste reduction measures, and they will go a long way to promote resource reduction and resource conservation. We support the policy.

Ruth Gravanis - I am very excited about this proposed policy. I am so pleased that it is before you. I am grateful to the staff who worked on it. It is the kinds of things that we would like to see replicated throughout the city. It is exciting that the Port can be the environmental champion here, and show the way and set a precedent that I hope will be copied by other city departments, especially Recreation and Park Department. Things like banning the intentional release of balloons is such a no-brainer when you look at the scientific data on how harmful that is. The Board of Supervisors started to consider it years ago, and it fell through the cracks. I am glad that it is before you today, and also the banning of single-use plastic water bottles is so very important. Miriam Gordon was waiting here a long time, but was not able to speak. She just couldn't stay. She asked me to just convey to you her support. Miriam Gordon is the California Director of Clean Water Action, and she says that Clean Water Action supports item 10B as it forwards a core aspect of our work to improve water quality i.e. pollution prevention, eliminating waste and pollution at its very source. I urge you very strongly to support this measure. I would like to add one tweak i.e. consider that 15,000 people is an awful lot. Maybe we could make these rules and regulations apply to crowds that are somewhat smaller as well. Overall I am very pleased, and at least I see that we have set as a goal for smaller groups to do the same thing. I am hopeful that events of smaller size will also be willing to do it on a voluntary basis once they see how easy it is. Once again, I just cannot say strongly enough how much I would like to see you support it.

Michael Davis, President and CEO of U.S. Pure Water - We are a mission-driven company that helps provide an alternative for bottled water. One of the ways that we have done that is with the city and county of San Francisco we have a

contract to replace their bottled water with bottle less water systems. The Port has a lot of our bottle less water coolers, and we have saved the city and county over a million dollars doing that, as well as helping to reduce fossil fuel use to bring the bottles from Point A to Point B. I want to commend everybody involved in working to reduce plastic bottled water use for the upcoming America's Cup event, and I want to encourage the banning of bottled water for not just the 15,000-people event and more but for less, because it is something that is very easy to do. We just did the Monterey Jazz Festival recently and people get more hydrated when there is free water available and it is easy to get than if they have to buy bottled water. It is a positive impact on the health of the participants as well as a better way to go about providing drinking water for people.

Commissioner Woo Ho - I was going to ask a question about the 15,000 and how that was derived. Mr. Davis just spoke about the bottle less water but if you have smaller events, how does that look in terms of bottle less water? It is just dispensers of water and you have to pay for cups or something?

Rich Berman - That is right. There are a lot of giveaway bottles or refillable bottles that people have, and you can provide temporary or permanent water dispensers. We used to call them drinking fountains, but those are kind of hard-plumbed into buildings. These are moveable water dispensers that can be brought in just for an event.

Commissioner Woo Ho - You are talking about permanent water bottles that people would take home with them?

Rich Berman - That is right.

Commissioner Woo Ho - The 15,000, was there some science behind that?

Rich Berman - There was consideration of the events that we have had but there was no hard science to it.

Executive Director Moyer - I just want to point out that you could have three days of 5,000 people; so it could be a smaller subset per day that would aggregate into 15,000.

Rich Berman - That is right. I should have clarified that. It says 15,000 in aggregate across the duration of the event.

Commissioner Woo Ho - But if we did decide to lower the threshold, are there issues concerning lowering it to a smaller number?

Rich Berman - We would definitely consider that. We do not have concerns with that.

Executive Director Moyer - Since this is a policy and it is an informational item today, our normal practice would be to go out into the community, meet with our community advisory groups, talk to some of our event programmers such as

Hartman Studios, which is doing something very similar. We would be happy to explore a smaller number. Do you have one in mind that you would like us to talk about?

Commissioner Woo Ho - I have no idea. I was just wondering why, similar to the public comment, whether there was a reason behind it. I don't know whether because of the events that we have had have always been of that size, whether it is over three days or one day, it did seem like a high number. The question is, then, how do people get water? Even 100 to 500 people, if you were to even lower the threshold. I am not suggesting that; I am just saying that because water is pretty important.

Executive Director Moyer - Before we come back with the action item we will try to zero in more on what is an appropriate number and why.

Commissioner Woo Ho – Generally, it is a great policy. It is a good policy to have in place. It is just a question of how you execute it.

Commissioner Lazarus - I had a question about enforcement and penalties. What is being contemplated as an enforcement mechanism, and will there be penalties for not adhering to the policy?

Rich Berman - Failure to comply with the policy would be a material breach of any real property agreement. Any event sponsor is required to obtain a real property agreement like a license or a lease. Failure to comply with this would be considered a material breach of that, and the Port would have available to it all remedies that would be consistent with that kind of failure.

Commissioner Lazarus - In terms of monitoring events, are we able from a staff perspective go and check to see that they are adhering to them? It is something that should be fairly obvious to see.

Rich Berman - We had not considered whether staff would monitor that or how we might do that. Events are difficult to monitor. They are often on weekends but it is something we will consider as we talk to the community and revisit this.

Executive Director Moyer - We do have an application process that goes with the license. Typically the events are done with licensees. The bigger properties where you have an ongoing operator file operations plan with us, and so that would be part of their operations plan. In the application for a license if it is a short-term event we can certainly require them to provide us with how they are going to do this. We do not have any monetary penalties embedded in the policy right now. We would be happy to consider it.

Susan Reynolds, Director of Real Estate - I did want to add on that some of our larger events we do get a security deposit. Maybe we could look into the feasibility of retaining some of that security deposit if we see flagrant violations or just not allowing them to come back because there are a lot of these events that

come back to the waterfront year after year such as Susan G. Komen, a Nike race, etc. Under the threat of not being able to do it again that is another possibility. This is an informational item. We will take any consideration back. I do want to thank Rich Berman, Tom Carter and Brad Benson for doing a lot of research and footwork on this. We are looking to make it a really strong leadership role in the environmental community. If the Commission has any additions or deletions, let us know.

Commissioner Katz - I also want to applaud all of you for bringing this forward, and I am very excited about it. It is something I am passionate about. One thought that has occurred to me, sort of corollary to Commissioner Lazarus' question -- how do we make it easy for people to comply? Perhaps whether the department of the environment has already compiled a list of alternatives, and then also where they can be sourced so that when we do get event coordinators coming forward they will know immediately where they can go to get the more sustainable products so that makes it easier much like we did with the environmentally preferred purchasing plans there, coming up with the list of alternatives so that can make it easier for compliance.

Rich Berman - The Department of the Environment does have easy access to alternatives, and an alternatives analysis was a part of this consideration because you cannot prohibit things if you do not have easy alternatives. We can strengthen that piece of this.

Commissioner Katz - Maybe even perhaps with the rental agreement, attaching a sheet that lists where some of the more common items could be sourced so that they will have it right there without having to go through the extra steps of tracking it all down.

Executive Director Moyer - That is a good idea. The San Francisco Public Utilities Commission is very much engaged, and has been doing this for quite a while. It is not really new technology so much as it is just a new policy but those are all terrific ideas.

Commissioner Katz - That would make compliance easier.

Executive Director Moyer -- I would also like to thank our colleagues at the Department of the Environment and the support of the Commission on the Department of the Environment, and Commissioner Gravanis. We could not do this without their help and their guidance and their big ideas.

Commissioner Woo Ho - I have just one comment. I went to Cirque du Soleil. At break time, I went to get something to drink. The water was sold in a Cirque du Soleil permanent bottle, which costs \$7, versus getting lemonade in a plastic bottle at \$3. Of course I ended up buying the \$3 because I was not going to spend \$7 for water. I don't know whether you are implying that everything that is in a plastic costs more because in that case I obviously chose the lower-cost alternative for my thirst. We have to think through some of those things in terms

of if you are going to offer other alternatives. If you make it \$7 a water bottle, people do get turned off by that. You have to think of the other water alternatives that we heard earlier from the public in terms of whether we can have that as an alternative. As a consumer, I immediately said, "I'm not paying \$7."

Rich Berman - That is a good example.

- C. Request approval of Lease No. L-15004 with Bauer's Intelligent Transportation Inc., subject to approval by the Board of Supervisors, for a ten year lease of office, shed and yard space at Pier 50, Sheds A and C (Resolution No. 11-83); Approval of License No. L-15074 with Bauer's Intelligent Transportation Inc. for interim use of office space at 401 Terry Francois Boulevard with a one-year term and an initial six- month free rent period (Resolution No. 11-84); and Approval of License No. L-15075 with Bauer's Intelligent Transportation for interim use of shed and yard space and access to office space at Pier 50 Shed A & C, with no rent. (Resolution No. 11-85)

Jay Edwards, Senior Property Manager with the Real Estate Division - I am here to seek approval regarding one lease and two license agreements for Bauer Intelligent Transportation Services. The lease is a 10-year lease for Pier 50, Sheds A and C. It is comprised of approximately 68,077 of shed space, 4370 square feet of office space, and about 50,000 square feet of yard space.

Bauer's Transportation has been a Port tenant since 1999, and they have really transformed themselves, transitioned themselves into quite a company now. They specialize primarily in corporate events, special events, working with the public agencies, and in many ways they are what we are interested in, in terms of getting cars off the street, reducing greenhouse gases, and there are a lot of public benefits that they provide as an organization.

They are very committed to sustainability. They have invested quite a bit in technology. They have come up with some interesting new technology of a solar system that is on their bus; it allows them to power their bus so they are not in violation of the anti-idling laws. They are using clean diesel technology. They are a leader in the green transportation, and they have won several awards.

They also are an entrepreneurial success story, with Gary Bauer starting here at the Port with just a limousine service. Now they have grown into a full-service transportation company with 75 vehicles. You have seen them all over town at many events. They are really in need of expansion space.

That is really what we are up here to talk about, is how they grow in the next 10 years. Pier 27 is a very constricted site. We have all heard about what is coming, but just to give you an example of what is there: it is shared with Teatro ZinZanni. It has maritime operations. It has SF Soccer. So it is quite a constricted area to operate in.

They have made arrangements for the cruise calls that have been increasing over the last several years at Pier 27; it is the longest berth that the Port has. That is why we are putting a cruise terminal there but it does create operational conflicts, and it has not enabled them to expand the way they would like to.

They did quite an extensive search throughout not just San Francisco but the entire bay, and they focused on Pier 50 as an excellent business choice for them because it would give them an opportunity to consolidate all their operations in one single shed -- and it is the largest contiguous vacancy that the Port has. There is adjacent fenced-in yard space, so that enables them to access their vehicles quickly, dispatch their drivers quickly.

It also has an opportunity for a corporate identity, which is important to Bauer's. It is located in Shed A, right next to the AT&T Park that provides the kind of identity they are looking for. In addition, it is a good central location. Right now Pier 27 is constricted, trying to get down the Embarcadero. Pier 50 has good access to their corporate accounts, to the highways. There is a number of compelling business reasons from their perspective, and there are certainly a number of good business reasons from the Port's perspective to enter into this lease agreement.

In terms of the new lease agreement, we have come to terms on a new 10-year lease that we negotiated with the assistance of our executive director, Monique Moyer, with assistant deputy director Mark Lozovoy and great assistance from Ms. Rona Sandler of our city attorney's office and backed up by Susan Reynolds. It was a team effort. This was not any one person going out and doing this. It was a cooperative effort. I would not say it was an easy effort, but it was cooperative. Bauer's is very anxious to get into their new facilities, assist the Port in its future plans, and but they have operational needs that need to be taken care of and thought through. That is why we have two license agreements, to enable them to assist us in our needs to do some work at Pier 27.

I will take you through the basics of the lease agreement and then summarize the license agreements. In your staff report, there is a pretty comprehensive, detailed proposal sheet that we put together. It outlines the term, the square footage, and the use. The use is going to be for the storage, for their maintenance, and for the dispatch of their vehicles, as well as a corporate headquarters. This is their site. This is their main site.

In our discussions with Bauer's, one of the real key things that we tried to listen to is their desire to expand; however, we had to structure this so they could ramp up to this kind of rent level. They are paying significantly less in their current rent. For instance, they have 36,000 square feet of shed space, and they are going to approximately double that.

They have some yard space, and they are taking on 50,000 square feet of yard space. They have 1500 square feet of office; they are going to 4,000 square feet of office. To go from that rent level to what we would call our parameter rent

levels would just be financially not sustainable for them as an organization. Through a lot of listening and structuring we have come up with this rent proposal for you today and that really starts off on a graduated rent. As you can see in the first year it is a blended rent. What we have taken are rates for office space, shed space, and yard space. That is what this comprised of the \$50,000 per month. As you can see through the 10-year term, it basically doubles.

There is the incremental increase in it, is typically we would go with a 2.5 to 3 percent increase annually. What we have done is go below the parameter rent initially and add that back onto the back end of the lease. Overall, it reflects a transaction of this size, but it allows for them to gradually increase their rent and increase their operations accordingly.

Shed Space A, the space that they are moving into, needs to be completely renovated. It is going to be quite a project. They are taking a combination of what I would call space that needed a good refurbishing, plus adding additional shed space. They are combining space that we would have used as shed space into office space. That has created quite a budget for them, and they are going to finance all the tenant improvements themselves. The Port will provide rent credit of \$515,000 for core and shell improvements. They have estimated the core and shell improvements will run almost \$600,000. Their total TI cost, which is an exhibit to the lease, is in the \$687,000 range. All the tenant relocations were analyzed in the EIR.

The rent credits will be used in the initial term of the lease, months eight through 17. That is after the renovation period. The reason for the renovation period of seven months was that this is going to be a significant construction project and it is going to take at least that amount of time to construct the office space, and the shed space is going to need new bathrooms and a lot of work as well. There is a significant construction period.

There is also consideration for these expenses to relocate, which they have waived their relocation provision under the lease. These were accounted for initially in the structuring of this transaction, and then as the lease goes into its 18th month they would be paying their then-scheduled rent.

The tenant will be responsible for the utilities, and they have an operations plan that we are in the process of trying to finalize, and that has been one of the reasons that we are anxiously trying to get this put together.

To facilitate this move, we have come up with two license agreements that we have before you, that are basically the use of about 2900 square feet at 401 Terry Francois, which is adjacent to Pier 50, and its use of existing office space. It is going to be leased in its as-is condition. We have provided that for a six-month rent abatement period. Then if they do stay longer, they would be paying the full parameter rent of the \$2.42 rate for any term after that. The license will expire after a year regardless, so it is considered an interim move while they are building out their office space.

The second license is the use and access of the shed C space, as well as the ability to build out the Shed A space. This would enable Bauer's to hopefully relocate here shortly, to get into the shed, to start doing work, moving their operations portion over there while they continue to work on the shed space, and enable us to complete our hazardous materials removal that is ongoing on Pier 27.

They are assisting the Port voluntarily, and trying to make this work for both parties. The current status is that we have a lease that has been prepared. We spent quite a bit of time negotiating the terms. It is not signed quite yet. We frankly ran out of time. We have been working on a very compressed timeframe with Bauer's.

We are confident we can get a signed lease and two license agreements. That is our objective, and I believe that is Bauer's objective, too. We are here to seek your approval for both the lease and the licenses.

Gary Schwartz - I am the chief financial officer and secretary of Bauer's Intelligent Transportation. Jay did an eloquent job of describing our business. We are very excited about this move although we have been in the Port since 1997. We transport over 6,000 people a day. The main focus of our business is what we call commuter business. The idea is to take cars off the road in clean, energy efficient vehicles, many of which, hopefully, you have seen around the area. I could not help but think about an idea that I just had on the previous measure. The very individuals that you mentioned -- the Nike Women's Marathon, the Outside Lands Music Festival, and the Treasure Island Music Festival -- all of those events are events that we provide transportation for. I am sure that we could tie in the distribution of water in a clean and effective manner with the transportation. We actually work closely with them, and we have a very, very good relationship with Onboard Entertainment, who is the presenter of the marathon.

We are very interested and happy to stay in San Francisco. It is very important, paramount to our business and more importantly it is paramount and important to stay in the Port. As Jay said we have worked very closely with Port staff, and I want to commend Jay, Mark Lozovoy, and other members of the staff who have worked tirelessly with me on bringing this to fruition.

Pier 50 is an ideal location. It works out well for both parties. This is paramount to our business. We are a San Francisco company. We are dedicated to the citizenry of San Francisco, as well as the Bay Area, and we would hope that you would approve our arrangement here.

Commissioner Woo Ho -- I would clarification on the rent credit versus the table of monthly rent. The monthly rent is before the rent credit; is that correct? The monthly rent that you list in the table on page four that is not after the rent credit; it is before the rent credit, right?

Jay Edwards - The rent credits will start on month eight. There are seven months of rent abatement. The rent credits start as of month eight through 17.

Commissioner Woo Ho - Change the monthly rent that you have listed.

Jay Edwards - To clarify, the table is for reference purposes. The actual rent will not start until the 18th month.

Commissioner Woo Ho – So this is the gross rent, and then there will be a credit applied

Jay Edwards - That is correct. Yes.

Commissioner Woo Ho - This is not with the rent credit reflected?

Jay Edwards - No, that is not. That is correct.

Commissioner Brandon - What is the total rent credits?

Jay Edwards - \$515,000 for what we call core and shell improvements. Those are improvements such as bathrooms, electrical, mechanical. Things that would outlast a tenancy, for instance, that we could reutilize for another tenant.

Commissioner Kimberly Brandon - Those are total rent credits, \$515,000?

Jay Edwards - It is up to \$515,000. That is the maximum.

Commissioner Brandon - What is the parameter rent?

Jay Edwards - The parameter rent in this case would be for instance, for Shed A, office space would be \$1.75; \$.75 for the shed, and \$.22 for the yard. We are below the parameter rent for the first three years on the shed and yard. At that point, it does go to parameter rent in year four. For the Shed A space it is a little difficult because it is a blended rent. Half of it is current office space; the other half is shed space. That would be a blended rate of about a \$1.20 through the first three years. After that, we exceed parameter rents and it does so higher than our normal schedule i.e. meaning that we are above a normal increase, exceeding 3 percent.

Commissioner Brandon - What is the difference in total dollars that we are losing in the first three years, versus what we are getting?

Jay Edwards - The total rent is about \$9 million. We were crafting this based on a total dollar value to the Port. We had a number that we stayed with. We moved it around a little bit to accommodate the tenant.

Commissioner Katz- To summarize, for the first 17 months we are looking at essentially about a million dollars that will be foregone? In terms of the seven months of rent credit and then the \$515,000 TI? Is that correct?

Jay Edwards - It is actually about \$875,000.

Commissioner Woo Ho - The total \$9 million was at parameter rent today, and then you just redistribute it over the 10 years.

Jay Edwards - Basically that is correct.

Commissioner Woo Ho - There is no CPI or anything else in there?

Jay Edwards – No, we are using a fixed rate increase.

Executive Director Moyer - The \$9 million included our normal escalation. In other words, you took 10 years at parameter rent with our normal escalations, came up with the \$9 million, and then said the new lease will be \$9 million but it is different. It is not prorated as much; it is different bulk year.

Jay Edwards - Our deputy city attorney, Rona Sandler, is reminding me that lease 15004 is subject to Board of Supervisors' approval due to the amount and the term.

ACTION: Commissioner Lazarus moved approval; Commissioner Katz seconded the motion. All of the Commissioners were in favor. Resolution Nos. 11-83, 11-84 and 85 were adopted.

11. NEW BUSINESS

Executive Director Monique Moyer - Under new business, I want to mention that the forward calendar for the January 20, 2012 meeting will now include an update on the cruise terminal analysis as we discussed in our item this morning. It is also our intention to bring the CEQA findings and mitigations on the project for 8 Washington if the EIR is adopted by the Planning Commission beforehand. Those are the two additions to the forward calendar.

12. ADJOURNMENT

ACTION: Commissioner Lazarus moved approval to adjourn the meeting in honor of the entire Port staff and their collective herculean efforts that got us here today. Commissioner Katz seconded the motion. All of the Commissioners were in favor.

Executive Director Monique Moyer thanked the Clerk of the Board of Supervisors, Angela Calvillo, and her amazing staff for generously offering their support and their room today, and Port staff Amy, Manny and George who made this meeting possible.

Commission President Brandon adjourned the meeting at 3:19 p.m.

